

Infopack

EDITORIAL

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Tribals Not Getting Their Due

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Tribals have always been at the receiving end in India, more so after the implementation of neo-liberal economic agenda of the World Bank and IMF by the successive governments at the centre. It is widely conceded that a large section of the tribal communities, in India, has not received the full benefits of the development process undertaken over the decades. On the contrary, it has been pointed out that the tribal population has been adversely affected by the development projects undertaken during post-liberalisation period. Various studies relating to displacement by large projects in various parts of India have documented that public authorities and private corporations alike have either sought to or succeeded in acquiring land, forest and other common property. Based on the research studies of NGOs, the National Human Rights Commission (NHRC) has noted that there has been large scale displacement in four states with large tribal population like Andhra Pradesh, Chattisgarh, Jharkhand and Orissa,

The past twenty years have been dramatic in the changes in the economy, and in the impact that economic policy has had on tribal communities. It has been pointed out that the unrestricted power of the State to acquire privately-owned land without any obligation on the State to rehabilitate persons affected has resulted in large number of cases of inadequate compensation, forcible acquisition even without payment of compensation, without replacement of livelihood, without provision of alternative land, without preparation of resettlement sites and without recognition of loss of right to access forest, other CPR and loss of community ties and cultural and religious heritage. This has also been the period when laws, notably the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 and the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, have been enacted which recognize autonomy and rights of tribal communities. However, the implementation of these laws have been half-hearted and erratic.

Moreover, development projects have given easy access to outsiders inside the areas belonging exclusively to tribal. These outsiders come seeking employment in various sectors. This has resulted in increasing urbanization of tribal areas and immigrants rather than tribals. Consequently, the percentage of tribal population in some Scheduled Areas has declined, although historically, these areas were almost exclusively occupied by tribal people.

The Scheduled Tribes and other traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important Act as it has begun the process of recognizing their rights and will be the legal basis for computation of compensation in case of diversion of Forest for development projects. Nevertheless, immense harm had already been caused to tribals before the enactment of this law.

Hence the Prime Minister's Office constituted a High-Level Committee (HLC) in August 2014 to study and analyse the situation in detail in order to design appropriate interventional measures to remedy the current state of affairs and uphold the progressive principles enshrined in the Constitution of India.

In this issue of **Infopack**, we are giving the summary of the report prepared by the Committee.

Popular Information Centre

Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India

Ministry of Tribal Affairs,
Government of India
May, 2014

Bird's Eye View

This report contains **introduction** and eight chapters, besides making substantial recommendations in the end. Eight chapters are titled: (i) Geographical and Demographic Profile, (ii) Tribes: Legal and Administrative Framework, (iii) Livelihood and Employment Status, (iv) Education, (v) Health, (vi) Land Alienation, Displacement and Enforced Migration, (vii) Legal and Constitutional Issues, and (viii) Delivery of Public Goods and Services. These chapters also have many sub-sections.

The report in **introduction** says that a High Level Committee (HLC) was constituted by the Prime Minister's Office in August 2014 to look into the socio-economic, educational and health status of the tribals of India. The Terms of Reference (TOR) of the HCL refers to 'tribal communities' which expands the scope of this report beyond the political-administrative category of Scheduled Tribes. The category of 'tribe' entails a social and cultural dimension but the Scheduled Tribe category has politico-administrative implications. The demand for Scheduled Tribe status continues to this day and there is no guarantee that such demands will not emerge in the future.

The report further says that the Constitution did not define the criteria for recognition of Scheduled Tribes and hence the Lokur Committee was formed to look into this issue. Accordingly the Committee recommended five criteria for identification, namely, (1) primitive traits, (2) distinct culture, (3) geographical isolation, (4) shyness of contact with the community at large and (5) backwardness. Many tribal communities employ the term 'adivasi' (original inhabitant) as a political term of self-reference - although this term is not recognized by the Government of India. The report says that while the tribes have a distinct culture and history, they also share commonalities with other marginalized sections of Indian society, such as lack of adequate political representation, economic deprivation and cultural discrimination.

It says that the tribal population, scattered across the country, is differently placed with respect to the politico-administrative structures existing in the country. Where they are a numerical minority, they are a part of the general administrative structure of the country, although certain rights have accrued to Scheduled Tribes across the country through reservations in educational institutions and government employment. However, where they are numerically dominant, two distinct administrative arrangements have been provided for them in the Constitution in the form of the Fifth and Sixth Schedules. The Sixth Schedule areas are some of the areas which were 'excluded' until the Government of India Act, 1956 in the erstwhile Assam and other tribal-dominant areas which became separate States. These areas have been given special provisions under Part XXI of the Constitution. The extension of such provisions to newer areas has been the result of political mobilization and social movements. Similarly, there are States where the provisions of the Fifth Schedule are in force. The Fifth Schedule is aimed at providing protections to the tribal population through separate laws for Scheduled Areas, including a special role for the Governor and the institution of Tribes Advisory Council. The provisions of the Fifth Schedule have seen further legal and administrative reinforcement in the form of Provisions of Panchayats Extension to Scheduled Areas (PESA) Act, 1996.

The report further says that despite these special provisions, tribes are among the poorest and most marginalized sections of Indian society. Although numerically only about 8.6 percent, they disproportionately represent the people living below the poverty line, are illiterate and suffer from extremely poor physical health. To illustrate, 45.7 per cent of the population as a whole was below the poverty line in 1993-94. In the same year, 63.7 per cent of

tribal people were living below the poverty line, almost 20 per cent than the rest of the country. The poverty figures were 37.7 and 60.0 per cent respectively in the year 2004-2005. The report says that the scenario is no different in the sphere of education and health. The literacy rate of tribes in 2001 was 47 per cent as compared to 69 per cent for the general population. Moreover, as per the National Family Health Survey, 2005-2006, the Infant Mortality rate was 62.1 per 1000 live births among tribes, and Under-five Mortality was as high as 95.7 per 1000 live births. The further says that in acknowledgement of the marginality of tribal communities, a number of Committees report and Commissions have been formed over the years by the government to look into the issues facing tribal communities. One of the first committees set up in this regard post-1947 was the Elwin Committee which was to examine the functioning of Multi-Purpose Development Blocks, the basic administrative unit for all tribal development programmes. This was followed by the U.N. Dhebar Commission, constituted in 1960 to address the overall situation of tribal groups, including the issue of land alienation in tribal areas. The Lokur committee, set up in 1965, looked at matters relating to the scheduling of groups as Scheduled Tribes. It is this committee which delineated the criteria for scheduling, which continues to operate to this day. The Shilu Ao committee, 1966, like Elwin committee, addressed the issue of tribal development and welfare.

The report says that in 1970s, several committees were constituted to address tribal problems and it was on the basis of the recommendations of some of these committees that the Tribal Sub-Plan approach of the government emerged. The Committees constituted in the more recent years have been the Bhuria Committee (1991) and the Bhuria Commission (2002-2004). The Bhuria Committee recommendations paved the way for the enactment of the PESA Act, 1996, while the Bhuria Commission focused on a wide range of issues from the Fifth Schedule to tribal land and forests, health and education, the working of Panchayats and the status of tribal women. The most recent committees have been the Bandopadhyay Committee, which looked at development and governance in Left-Wing Extremist areas, and the Mungekar Committee, which examined issues of administration and governance.

The issues that the above mentioned Committees have dealt with fall broadly into two categories: development and protection. And yet, on both these issues, the outcome for tribal communities has been mixed. Through the last six decades, the State has emphasized development while doing little to enhance the protections provided in the Constitution through the everyday practice of statecraft. Rather, the protective measures have been violated by the very State which is supposed to ensure the enforcement of these protections. It is this which largely explains the marginal status of tribal communities.

The report also says that the constitution of the High Level Committee by the Prime Minister's Office marks the recognition of the fact that Scheduled Tribes have lagged behind other segments of the population in respect of overall economic standing, education and health status, despite the country having witnessed a relatively high growth rate in last two decades.

In the course of preparing the report, the Committee went through several constraints. Further, while the Committee had requested the State Government for the data on various parameters related to Scheduled Tribes in their States, a large number failed to submit it. Moreover, the National Sample Survey Organization (NSSO), Census of India, and the National Family Health Survey did not have data on some issues to be examined by the Committee as per the Terms of Reference (TOR), and where data existed, in some cases, disaggregated data was not available.

It further says that the Committee is mandated to prepare a position paper on the present socio-economic, health and educational status of Scheduled Tribes (STs), and is expected to suggest policy initiative as well as effective outcome-oriented measures to improve development indices and strengthen public service delivery to the Scheduled Tribes. The key issues and questions to be addressed are:

- ♦ Geographical pattern of economic activity and the change in avenues of employment and livelihood due to rapid urbanization and shrinking of their habitat; asset base and income levels and changes in the pattern of ownership and productivity of immovable assets coupled with the role of public policy and legal frameworks in facilitating/inhibiting such changes;
- ♦ Access to educational services, level of social infrastructure, level of literacy and dropout rate;
- ♦ Access to health services, level of social infrastructure, Maternal Mortality Rate and Infant Mortality Rate;
- ♦ Relative share of public and private employment, reasons for under-representation and capacity building steps to enhance employability;
- ♦ Adequate systems and structures for implementation of protective legislation;
- ♦ Consolidate, collate and analyze this information to identify areas of intervention in order to address the socio-economic, health and education status of tribes.

The Committee says that the report has been organized around five critical thematic issues: livelihood and employment, education, health, involuntary displacement and migration, and legal and constitutional matters. Of the five themes, three themes are concerned with issues that have been at the root of the post-colonial States' development agenda for tribes: livelihood and employment, education and health. Substantial resources have been allocated specifically for tribes in all these spheres, and special programmes and schemes have also been formulated to address problems on these fronts, beginning from the first phase of India's planned development. The concern with these issues still continues. And yet the status of tribes in these spheres continues to be one of the critical gaps in India's road to development.

The report examines the position of tribes in above mentioned spheres in three separate chapters. This also raises question of institutions and systems for delivery of public goods and services. Although, tribes constitute a distinct social category and have special Constitutional and legal provisions, they have not been outside of India's larger economic and political framework. And the working of these larger institutional frameworks especially, the economic, legal and administrative, has adversely affected the tribal communities in India. As a part of nation-building process, tribal areas have witnessed the large-scale development of industry, mining, infrastructure projects such as roads and railways, hydraulic projects such as dams and irrigation. These have been followed by urbanization as well. The overall impact of these on tribes has been often loss of livelihood, massive displacement and involuntary migration. Issues pertaining to these mentioned problems have been critically examined in the report.

Another important issue analyzed by the Committee is the working of legislations that have a bearing on tribal communities. The Provisions of Panchayat (Extension to Scheduled Areas) Act (PESA), 1996 and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) 2006, enacted to redress the historical injustice to tribal and forest communities, have been significant initiatives that have changed circumstances recognized in the law. However, policies and practices have been slow to absorb the changed circumstances recognized in the law. These legislations and their violations have been examined for future amendment. Subjects such as land acquisition, food security, detention and imprisonment, the status of Particularly Vulnerable Tribal Groups (PVTGs) and De-notified Tribes, have also been highlighted.

The report says that the whole thrust of the approach to tribal development in independent India was to be centred on the integration of tribes into the larger Indian society. In fact, their integration was seen as the solution to tribal 'backwardness'. The provisions enshrined for Scheduled Tribes in the Indian Constitution are a testimony to the dual approach of providing for development as well for safeguarding and protection of tribal interests.

The report however says that it was development (of a particular thrust) that became the primary thrust of the State's agenda, with minimal regard for protections and safeguards. What the State is actually pursuing in tribal areas - apart from Northeast India - is assimilation rather than integration, contrary to what is claimed. A policy of integration would provide space for protections and safeguards for their distinct identity, as enshrined in the Constitution. However, these provisions are precisely what are under threat of erosion through the process of cultural domination and more importantly, the prevailing development paradigm. Moreover, the view that lack of development of the tribal population was caused by their isolation took precedence. This is often followed with the argument of inadequate resource allocation for tribal development. However, even with an increase in resource allocations since the Fifth Five Year Plan beginning in 1974, the condition of tribals has failed to improve proportionally. There is no doubt that isolation is an important constraint to development. However, to put the blame squarely on isolation is a gross distortion of the development problem of the tribal population.

Poor implementation of programmes is offered as another explanation for the issue of lack of social development among tribals. In this view, the solution lies in effective implementation of state-sponsored development programmes and schemes, whether these pertain to livelihood and income-generation activities, education, health, or communication facilities. However, the problem of ineffective implementation in tribal areas remains inadequately addressed.

The third set of arguments regarding poor development of the tribal populations is built around the issue of the traditional socio-cultural aspects of tribal life. If tribals suffer from low income, poor educational and health status and various kinds of diseases, this is because of their traditions and life style. However, this may not be due as much to their social structure but to overall cultural and value framework of State-led development. The framework of development is alien to the tribes. For example, education in the regional language is usually familiar to the general population including Scheduled Casts, but this is not the case in the tribal context. Thus, there is a need to re-orient development in tune with the tribal culture and to adopt a more humane approach to tribal development. Overcoming tribal 'isolation' through large-scale mining, industrial and infrastructure projects,

as has been seen in the states of Jharkhand and Odisha, has clearly not resolved the problem of poor development indicators. Rather, these have led to further impoverishment and vulnerability.

Over the last two decades, there has been a massive push to this development agenda, which has coincided with economic liberalization and entry of private corporations into tribal areas. This has been met with considerable resistance by tribal communities. This is often interpreted as evidence that tribes are 'anti-development', which is far from truth. What tribes have been questioning is the 'model' of development that is being imposed on them. Laws and rules that provide protection to tribes are being routinely manipulated and subverted to accommodate corporate interests. Tribal protests are being met with violence by the State's paramilitary forces and the private security staff of corporations involved. These dismal situations have paved the way for Left-Wing Extremism (LWE) in tribal areas. These areas are marked by the following features: (1) serious neglect and deprivation, widespread poverty and poor health and educational status; (2) exploitation and oppression by traders and money lenders, on the one hand, and absence of an effective and sensitive civil administration, on the other hand; (3) large-scale displacement of tribal people for development projects; (4) occurrence of all of the above despite the special Constitutional and legal provisions for the tribal people (in the form of the Fifth Schedule, laws to prevent alienation of tribal land and restoration of alienated lands, and in recent years, progressive legislations, such as PESA, 1996 and FRA, 2006.)

The report says that a large section of people in tribal heartlands have lost faith in the ability of the law and the willingness of the administration to protect their interests. Any solution, therefore, should begin with confidence-building measures through the redress of past wrongs and the guarantee of justice. This is necessary in order to restore the trust of the tribals in the government.

To summarize, the report says that tribal communities face disregard for their values and culture, breach of protective legislations, serious material and social deprivation, and aggressive resource alienation. So the Committee hopes that the government will seriously consider the suggestions of the HCL and incorporate them in law, policy and practice. The report of the HCL is based on the perspective outlined below and it hopes that the State's approach will be based on the same. The premises outlined are:

- ♦ An empowered citizenry and a functioning, participatory (including participation of women) self-governance is the best guarantee for a democratic nation;
- ♦ Due share in socio-economic progress for tribal people and their habitations, including facilities like health, education, livelihood, drinking water, sanitation, roads, electricity and sustainable income, in situ;
- ♦ Protecting the land and forest rights of tribal communities is equivalent to protecting their livelihoods, life and liberty. Therefore, laws protecting tribal land from alienation must be upheld at all costs;
- ♦ The right to natural resources in tribal lands has to be protected. They should only be accessed with the consent of the Gram Sabhas of the villages;
- ♦ While tribal lands hold much of the natural and mineral wealth of the nation, these resources cannot be alienated against their will. Moreover, communities who part with their lands have the right to share in the wealth and income so generated from its resources;
- ♦ Hence, a reasonable share of the wealth generated by the resources in their homelands must accrue to them by law, and
- ♦ The right to preservation of their language, culture and traditions, and to protect themselves against the loss of identity, must be recognized, protected, documented and allowed to thrive as dynamic living culture.

Geographical and Demographic Profile

This chapter states that although the Census of 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 percent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging of diversities among Scheduled Tribes in respect of language spoken, size of population and mode of livelihood.

This chapter further attempts to map out the broad contours of the Scheduled Tribes of the country in terms of their demography and geography. The tribes can be distinguished into five broad regional groupings based on ecological, social, economic, administrative, and ethnic factors (although there are many overlaps), namely, Himalayan Region, Middle Region, Western Region, Southern Region and Island Region.

There are many differences between these regions as well as differences from tribe to tribe. The tribes can also be differentiated on the basis of population size. A majority of tribal groups work in the primary sector, and are heavily dependent on agriculture either as cultivator or as agricultural labourers. At the same time, a number of

Scheduled Tribes no longer follow their traditional occupations or work labourers on plantations or in mines and factories (in many cases, since the nineteenth-century). Displacement and enforced migration has also led to an increasing number of Scheduled Tribes working as contract labourers in the construction industry and as domestic workers in major cities.

The report says that among the States, Odisha has the largest number of notified STs (62) followed by Karnataka (50), Maharashtra (45), Madhya Pradesh (43) and Chhattisgarh (42), Sikkim has the least with four tribes followed by Nagaland, Daman and Diu and Uttarakhand with five each. Among the South Indian States (without any Scheduled Areas), Karnataka has the largest number of Scheduled tribes (50) followed by Tamil Nadu (36) and Kerala (36).

There are ninety districts in India, where the tribal population is more than 50% of the total population. Similarly, in 62 districts, the tribal population is more than 25%, but less than 50% of the total population.

As per the 2001 census, the tribe with the largest population is the Bhil (12689952) followed by the Gond (10859422), the Santhal (5838016) and the Mina (3800002). Most of the large tribes have populations spread across several States and in some cases, over the entire breadth of the country.

The chapter further analyzes the role of Forests, Dams and Mines in the lives of tribal population. It says that of the 58 districts, wherein forest cover is greater than 67 per cent, 51 districts are tribal districts. Therefore, a large section of the tribal population have been dependent on the forest for their livelihood. However, much of this forest was classified as Reserved Forests and Protected Forests as well as Wildlife Sanctuaries and National Parks, resulting in the marginalization of tribal communities who were treated as encroachers on this land prior to the passing of the Forest Rights Act, 2006.

While talking about minerals, the report says that three states including Odisha, Chhattisgarh and Jharkhand have considerable mineral reserves. These three states alone account for 70 percent of India's coal reserve, 80 percent of its high grade iron ore, 60 percent of its bauxite and almost 100 percent of its chromite reserves. According to the Centre for Science and Environment, about half of the top mineral-producing districts are tribal districts and these districts are with forest cover of 28 per cent which is larger than the national average of 20.9 per cent. Unfortunately, much of this forest land has been diverted for mining purposes resulting in environmental degradation, loss of livelihood, and displacement of tribal communities. Many of these mineral-bearing areas are also affected by the on-going conflict between the Maoists and the States.

Dam is another source of displacement for tribes since Independence, with India being one of the largest dam-building nations in the world. It is estimated that dams are the biggest cause of displacement in the country ranging from 20 to 50 million. And 40 percent of those displaced belong to Scheduled Tribes. Given that the Scheduled Tribes constitute about eight per cent of the country's population, they are clearly disproportionately represented in the number of displaced person.

The chapter further talks about the conflicts affecting the tribal populations. It says that numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the Northeast. A large portion of these areas are tribal-dominated and it is tribal civilians, who have been worst affected by the conflict. The conflict has only escalated in recent years, particularly in central India, following the initiation by the state of a counter-insurgency operation known as the Salwa Judum in Chhattisgarh which has been responsible for rapes, murders, arson, looting and intimidation in the name of defeating the Maoist.

Tribes: Legal and Administrative Framework

This chapter discusses the Indian Constitution, and laws made under it, recognize the special status of tribal communities. While sociologists and anthropologists have debated the defining characteristics of a tribe, the Constitution recognizes that tribal communities need and deserve special protections and that the politico-administrative establishment must act to ensure that such protections are extended to tribal communities.

It was largely, following the various tribal rebellions during the colonial period that tribes came to be seen as the region's 'original inhabitants' who existed outside of the caste system and had been marginalized by the more advanced caste-Hindu society. The nineteenth century ethnographic view of tribes argued that term referred to both a particular type of society based on kinship ties and a stage of evolution. In the case of the latter view, tribes are seen as 'primitive' societies in the sense of lacking all the traits of modern, Western society in that they are non-literate, 'un-civilized', non-industrial, rural, and so on. Tribes in the Indian context have also been defined as groups remaining outside of the structures of State and civilization.

Each definition of tribes stresses on a particular aspect of tribal life - their relationship with the State, civilization and processes of development as well as specific features of their culture, livelihood, and economy. However,

the dominant conception of tribe that developed during this period revolved around notions of 'backwardness', indigeneity, and separation from larger Hindu civilization. Tribes were identified largely in terms of what they were not: they did not practice Vedic Hinduism, they were not Muslim, their societies were marked by the relative absence of economic and ritual stratification, and they were not integrated into the 'modern' economy or civilization.

Subsequent ethnographers have contested these conceptualizations, arguing that tribes have constantly been in interaction with other social groups, and that, terms such as 'primitive' and 'backward' are based on the problematic assumption of social evolutionism. Other scholars have argued that the conception of tribe as isolated was based on their emergent marginalization through unjust forest policies, forced sedentarization and pacification during British colonial rule. Large segments of the tribal population were integrated into the market economy during this period through the appropriation of their lands as well as their labour in commercial forestry, mines and plantations.

The chapter points out that at the time of the first census of independent India in 1951, there were 212 recognized Scheduled Tribes in the country. The term Scheduled Tribes itself is a politico-administrative category that does not capture the enormous social complexity of the various tribes encompassed within its fold. The Constitution of India categorized certain sections of the population as Scheduled Tribes to make available special welfare provisions to them - even though this category was never properly defined. Article 366 (25) of the Indian Constitution says:

"Scheduled Tribes means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes for the purposes of this Constitution."

The granting of Scheduled Tribes status to certain social groups is an on-going process, indicating that there are groups which might identify themselves as tribes but which remain outside of the official ST category. The First Backward Classes Commission set up by the President of India in 1953, recommended the declaration of additional communities as Scheduled. Thus, through another order in 1956, the President of India notified a modification of the list of Scheduled Tribes. In the 1961, census, the number of Scheduled Tribe communities increased to 427, which was twice the number from the previous census. This increased to 432 by the time of the 1971 census.

The chapter also says that beyond definitions of 'tribes', the Indian context has produced a situation in which classification of communities as Scheduled Tribes is not uniform throughout the country but varies based on often arbitrary administrative boundaries. Several committees have taken note of this anomalous situation, introduced through the Government of India Act, 1935, whereby members of the same tribe from an ethnological or social point of view are recognized as Scheduled Tribes in one State or one part of State and not in others. That is, the category of Scheduled Tribes, although distinct, was connected to an understanding of 'tribal areas' in that, until 1976, area restrictions were in operation with regard to recognition as a Scheduled Tribe.

According to the Lokur Committee, these territorial restrictions acted as a barrier to spatial and social mobility, since moving out of the area in which their tribe is recognized would imply the loss of all benefits and privileges. Such restrictions were, therefore, seen to be contrary to the goal of tribal integration which advocates the end to tribal 'isolation' and inter-mingling of populations. The Lokur Committee recommended that the various tribes in the list should be administratively differentiated, so as to ensure that priority in development planning should be given to the more deprived, among the groups. In 1976, the Removal of Area Restrictions (Amendment) Act was passed, which removed area restrictions on the recognition of Scheduled Tribes.

Despite efforts made by various governments, there continue to be several anomalies in the scheduling of tribes. The National Commission for Scheduled Tribes (NCST) has noted that cases involving inclusion of communities which are scheduled in one state and non-scheduled in a neighbouring state need to be given priority in order that members are not denied benefits any further. There are also other anomalies in the process of scheduling such as instances of increasing the communities within the Scheduled Tribes list in the state without simultaneously reserving electoral constituencies for STs. There is also the concern that some tribes classified under the Particularly Vulnerable Tribal Groups (PVTGs) have not yet been notified as Scheduled Tribes, a situation that the NCST has taken up.

Particularly Vulnerable Tribal Groups (PVTGs)

The chapter says that certain tribes have been characterized as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups. PVTGs are identified on the basis of the following criteria: (1) forest dependent livelihoods, (2) pre-agricultural level of existence, (3) stagnant or declining population, (4) low literacy rates and (5) a subsistence-

based economy.

It says that the vulnerability of the PVTGs primarily stems from the loss of their traditional livelihoods, habitats and customary resource rights through the gradual exploitative intrusion of the market and State into their areas in the form of industrial projects, conservation efforts, tourism, and the forest bureaucracy and so on. These conditions have led to the loss of their land and resources resulting in chronic malnutrition, starvation and ill health among these groups.

One of the most critical issues to be addressed with regard to PVTGs is their perceived 'primitivism' and 'backwardness' evident in official discourse. Although, the term 'Primitive Tribal Groups' was replaced by 'Particularly Vulnerable Tribal Groups' in 2006, the highly derogatory term 'primitive' continues to be used by the government, media and NGOs. It must be noted that all tribes in the list of PVTGs have not been granted Scheduled Tribes (ST) status. Their socio-economic vulnerability and low population levels has led them to be treated as 'endangered' and 'on the verge of extinction' - terminology which denies them their full humanity. Rather than granting them their autonomy and rights to address historical injustices, this perception has led to disastrous State Government interventions in the name of their 'preservation'.

The chapter further says that literacy rates among PVTGs are extremely low, much lower than even the State average for the Scheduled Tribe population. This is largely due to abysmal education infrastructure in tribal areas, poorly trained or absentee teachers, lack of teaching in tribal languages and alienating curriculum. Yet PVTG children are highly educated in many ways and possess considerable knowledge about agriculture, forests and so on which must be duly recognized. Any educational policy or programme for PVTGs would need to take account of their distinct culture in order to develop a curriculum and pedagogic style which centralizes their traditional skills, culture and language while introducing young people to diverse knowledge and cultures from across the world.

Many PVTGs are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation. For instance, in 2009, 245 Baiga families were moved out of the Achanakmar Tiger Reserve, when it was notified under Project Tiger. The housing colonies built for their rehabilitation soon began to collapse, they did not receive pattas for their new farmland and they did not get the full compensation owed to them under the Project Tiger relocation scheme. The Baiga families were relocated to an area where their traditional forest livelihood of collecting Sal and Tendu leaves as well as bamboo was no longer feasible. Habitat rights for PVTGs as guaranteed by the Forest Right Act must be granted to them and definitional as well as procedural ambiguities must be cleared up.

It also says that what has often occurred in the past is that development programmes have been imposed on PVTGs without considering their own priorities and development needs. As the National Advisory Council recommendations have noted, there is a significant risk that vulnerabilities may be exacerbated rather than reduced through government intervention and therefore due caution must be exercised in all cases. Programmes should not have the effect of undermining their self-sufficiency and their own development priorities must be the driving force of government action. It also says that vulnerabilities must be addressed through taking account of their food production and distribution systems and their rich repertoire of traditional skills and knowledge.

Scheduled Areas

The chapter states that even prior to the development of a delineation of the characteristic features of a tribe, there existed a separate system of governance for predominantly tribal areas marked by special legal provisions and the non-applicability of general laws in these areas. Thus, the creation of distinctive tribal spaces in legal-administrative terms preceded the classification of specific groups as tribes based on established criteria. These areas are referred as Scheduled Areas in the post-Independence period.

The separation of these areas continued with the Government of India Act, 1919 which renamed the Scheduled Tracts as 'Backward Tracts' and also distinguished between 'really backward tracts' wherein Governor General was exclusively responsible for law and administration and the 'backward tracts' wherein Governor General could act through local officials. This nomenclature was altered to 'wholly excluded areas' and 'partially excluded areas' respectively by the Simon Commission according to the level of backwardness. One of the primary features of the Partially Excluded areas was that no general laws would apply to these areas, unless the Governor saw it fit to apply these legislations. However, in the post-1947 period, this feature was altered vis-à-vis the Fifth Schedule areas since now all Central and State laws would automatically apply to tribal areas unless the Governor took the decision to prevent application or modify/amend the legislation in keeping with the circumstances of the Scheduled Areas.

It further says that the demand for political autonomy by tribals was overlooked, despite several ongoing agitations for political rights. Further, this view neatly separated the related issues of social and economic well-being and political power. The resultant policies were based on the economic integration of tribals through development programmes while attempting to ensure that the cultural aspect of their society such as language and customs were left untouched. This understanding of the tribal question continued in the post-colonial period. The Constitution of India continued with this system of governance through the separate, but interlinked categories of Scheduled Tribes and Scheduled Areas.

Similar to Scheduled Tribes, the definition for Scheduled Areas (under the Fifth Schedule of the Constitution) is "such areas as the President may by order declare to be Scheduled Areas". The criterion for the declaration of an area as a Scheduled Area was identified by the first Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission). The features of such an area were: the preponderance of tribal population, compactness and reasonable size of the area, under-developed nature of the area, and marked disparity in the economic standard of the people.

It is important to reiterate that there are several tribal-populated areas across the country which are not Scheduled Areas and therefore, are not covered by the protections offered under the Fifth Schedule. These include tribals living in the nine States of India which have Scheduled Areas as well as those living outside of these States - for example, in West Bengal, Bihar, Uttar Pradesh, Uttarakhand, Goa, Tamil Nadu, Kerala, and Karnataka and the Union Territories of Daman and Diu, Dadar and Nagar Haveli, Lakshadweep, and the Andaman and Nicobar Island.

The Chapter points out that on the question of Scheduled Areas, the Bhuria Commission (2002-2004) requested various State Governments with sizeable tribal populations to comment on the existing criteria for scheduling of areas through an assessment of their validity within the contemporary context and through recommendations that could make the given criteria more specific and precise.

The State Governments, in response, provided several suggestions on this issue, with some calling for changes in the criteria while others declaring their satisfaction with the status quo as regards their States.

The Rajasthan government recommended that the backwardness of an area be assessed, according to these parameters: ST female literacy and availability of safe drinking water, health care, and electricity. Based on these suggestions the Bhuria Commission recommended:

- a) *that the notification of Scheduled Areas should include villages as well towns and cities in the Blocks, Tehsils and districts, including all forests and revenue lands.*
- b) *that all the integrated tribal development projects (ITDPs), Modified Development Approach (MADA) pockets included in the tribal sub-plan should be considered for notification as Scheduled Areas subject to conformity with the established standards.*

The report under this Chapter argues that the parameters for further inclusion of non-Scheduled Areas within the ambit of the Fifth Schedule must be debated by the Central and State Governments and action must be taken in this regard immediately.

Section II: Legal and Administrative Framework in Scheduled Areas

The chapter points out that in the post-colonial period, the classification of an area as a Scheduled Area carries significant legal and political implications since it is on this basis that the provisions of either the Fifth or the Sixth Schedule apply. These constitutional arrangements for the Scheduled Tribes follow different patterns and provide for both protections from non-tribals (particularly on land alienation, money-lending and political representation) and provisions for autonomous decision-making on various matters. These frameworks constitute the recognition of the adverse inclusion of tribal communities within the global political economy as well as the distinctiveness of tribal culture and identity threatened by the cultural imperialism of the non-tribal majority. At the same time, it must be noted that several of these provisions are paternalistic in nature and are not entirely adequate to the onerous task of ensuring the protection of tribal land and resources given the current context of liberalization. Moreover, the experience of the functioning of the institutions created under these constitutional provisions demonstrates that stricter implementation and further strengthening of laws is an urgent necessity. This section of the chapter examines the various arrangements instituted for the Scheduled Tribes and briefly analyses the strengths and weaknesses of each.

The Fifth Schedule

The chapter says that the basis of the Fifth Schedule of the Constitution can be traced back to the laws of the British colonial government designating certain parts of the sub-continent 'backward tracts' and 'partially excluded

areas'. The debate around the Fifth Schedule, its relevance and its efficacy vis-à-vis the intentions of the Constitution makers are as contentious today as they were during the debates of the Constituent Assembly.

The belief that tribal areas required special laws led to the setting up of the Advisory Committee on Fundamental Rights and Minorities by the Constituent Assembly, 1947. The body appointed three sub-committees in 1947 to look into specific tribal areas and make suggestions for their administration and functioning. The first was authorized to look into the excluded and partially excluded areas 'other than Assam' and was headed by Shri. A.V. Thakkar, the second to examine tribal areas within undivided Assam chaired by Shri. Gopinath Bordoloi, and the third was to analyze the situation of tribes in the North Western Frontier Province. The proposals of the first two committees were later incorporated as the Fifth and Sixth Schedules of the Indian Constitution.

The chapter points out that the Fifth Schedule (Article 244 (1)) of the Constitution finally adopted by the Constituent Assembly did not include several of the recommendations of the sub-committee and Assembly members. The Fifth Schedule contains provisions relating to the administration of Scheduled Areas other than in Northeast India.

Part B of the Fifth Schedule provides for the creation of a Tribes Advisory Council (TAC) in each State having Scheduled Areas (and if the President directs, also in States having Scheduled Tribes but not Scheduled Areas), consisting of twenty members of which three-fourths must be representatives of the Scheduled Tribes in the Legislative Assembly of that State. The duty of the TAC is to advise on matters pertaining to the "welfare and advancement" of the Scheduled Tribes "as may be referred to them by the Governor". Further, the Fifth Schedule grants extensive powers to the Governor who, by public notification, may direct that a law enacted by the Parliament or the State Legislative Assembly shall not apply to a Scheduled Area, or may apply subject to certain amendments or restrictions as he/she specifies. The Governor may only make such regulations on consultation with the concerned TAC and subject to the assent of the President.

Unlike the Sixth Schedule wherein Autonomous District Councils have been given significant legislative, judicial and executive powers on several important matters, the Fifth Schedule places the governance of tribal areas in 'mainland' India largely in the hands of the Governor. This occurred for two reasons: one, mainland areas had large non-tribal populations and two, the tribes of the Northeast were seen as more advanced and capable of self-governance unlike the tribes in other parts of the sub-continent. As a result, tribes were given 'protection' from outside intrusions and land alienation but were not granted much autonomy on political and economic matters.

Governor's Report

The chapter says that according to the Scheduled Areas and Scheduled Tribes Commission Report (2002-2004), the Governor's report is expected to contain an objective and independent assessment of the quality of the administration of Scheduled Areas, the implementation of protective safeguards for tribals, and the regulations made by the Governor in keeping with his powers under the Fifth Schedule. It should further cover issues of displacement and rehabilitation, law and order problem, tribal protests, atrocities against tribes, and so on. This report is required to be placed before the TAC for their advice and recommendations. On the basis of this Report, the Union Government may issue directives to the State Government for better administration of these areas.

It further says that the Bhuria Commission Report (2002 - 2004) had pointed out that some States did not send their reports regularly. Even when the reports are sent regularly, there have been several questions raised regarding the quality and value of the reports. Critics have pointed out that the reports are repetitive, casually and haphazardly constructed and tend to borrow heavily from reports of the tribal welfare department, merely listing out the schemes and programmes for tribal development without even examining their implementation and efficacy on the ground. Pressing issues such as the impacts of insurgency and counter-insurgency on tribal populations and displacement by big industry rarely find mention. The Governor's Reports offer quantitative rather qualitative or analytical data about the status of tribal administration in the concerned States - even the statistical information presented relates to the flow of development funds to tribal villages and the number of beneficiaries of government welfare schemes. The reports do not offer an independent assessment of the policies of the State Governments vis-a-vis Scheduled Areas and instead seem to uncritically accept government claims of tremendous achievements with regard to tribal development. A confidential report sent to the President by the National Commission for Scheduled Tribes (accessed by Down to Earth magazine in 2013) has also complained of the failure of Governors in performing their administrative duties to ensure self-governance in tribal areas. The National Commission advocated that Governors be made more accountable with regard to their roles vis-à-vis Scheduled Areas, namely ensuring the implementation of Constitutional provisions protecting tribal rights.

In April 2012, Union Minister for Tribal Affairs, DR. V Kishore Chandra Deo requested the Governor of Andhra Pradesh, Shri. E.S.L. Narasimha, to use his powers under the Fifth Schedule to cancel a Memorandum of

Understanding (MoU) signed by the Government for bauxite mining in Fifth Schedule areas of Visakhapatnam district. It has also been noted that when Governors do exercise their Fifth Schedule powers, it is only on the advice of the Council of Ministers. Activists have complained that Governors never respond to petitions calling for their intervention in cases of land conflicts, acquisition for mineral extraction and police atrocities against tribal communities.

Tribes Advisory Council

The chapter says Advisory Councils have been set up in all nine States having Scheduled Areas as well as two other States namely West Bengal and Tamil Nadu, both having sizable tribal populations. It further says that there are several shortcomings inherent in the structure and mandate of the TACs as laid down in the Constitution. Firstly, the TACs can only discuss and make recommendations on those issues which are referred to it by the Governor. Secondly, it functions only in an advisory capacity and has no power of implementation. Thirdly, the Councils are not accountable to the tribal population given that they are appointed by the Governor or the State Government.

A detailed study of the minutes of the meetings of the Tribes Advisory Councils by the Asian Indigenous and Tribal Peoples' Network (2012) reveals that the meetings of the Councils are almost tokenistic and critical issues (such as land alienation) are rarely discussed. Further, the resolutions of the Councils are not followed up in subsequent meeting and the implementation of their recommendations is not independently verified. The issue of the representativeness of the TACs is also a central issue - while three-fourth of the members are to be tribal MLAs from the concerned State, the non-official, nominated members include the Chief Minister of the State (often the Chairperson of the TAC) and bureaucrats.

Further, the members of the TAC have few powers even in terms of what can be discussed at the Council meetings. The Bhuria Commission Report (2002-2004) places on record the dismay of some members of various State Councils who complain that the State Government do not put any important matters to the Council for advice. In all these years of its functioning, the TACs have rarely made any significant policy proposals or recommendations on tribal and development issues.

There continue to be complaints regarding the legal and actual power of the Governor with regard to the TAC as well on the point of issues to be discussed within the Council. While the Constitution holds that the TAC can hold deliberations on matters referred to it by the Governor, experts have argued over whether the Governor as the Constitutional head of the state can make this referral on his own discretion or only on the advice of the Council of Ministers. The question is central since the answer could shape future interpretations of the Fifth Schedule as well as the extent of control of various State Governments over the functioning of TACs. In recent years, the Central Government itself has given two contradictory interpretations on this issue since, in 2010, the Attorney-General Shri. G.E. Vahanavati opined that the Governor did have discretionary powers, but in 2013, the Assistant Solicitor-General, Smt. Fauzia Mirza stated that the Governor can employ his powers on the aid and advice of the Council of Ministers and not at his own discretion. Further, even when serious debate does occur at the TAC, the Council does not follow up on latest development and implementation on their recommendations. Moreover, the concerned departments do not always submit Action Taken Reports to the TAC and therefore, the earlier decisions and recommendations of the TACs, even when implemented, are not revisited in subsequent meetings (as reflected in the minutes). This is true of the Councils in almost all of the States.

Legal and Administrative Structures in Northeast India

The chapter says that historically, tribes of this region have seen "isolationist" policies of the colonial British who labeled many hilly tribal tracts of the Northeast as "wholly excluded" areas. While the tribal dominated areas in what is commonly referred to as 'mainland' India are largely governed by the provisions of the Fifth Schedule, the States of the Northeast are covered by the Sixth Schedule of the Constitution as well as a host of other legal and administrative arrangements for the protection of tribal autonomy.

The British philosophy of maintaining status quo and isolation was replaced by policies of development and integration of the Northeast through the Sixth Schedule of the Constitution. The Schedule was drafted by a Sub-Committee of the Constituent Assembly called the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee headed by Assamese political leader, Shri, Gopinath Bordoloi. The Sixth Schedule is entirely focused on protection of tribal areas and interests, by recognizing self-governance through constitutional institutions at the district or regional level.

The Sixth Schedule provides for the creation of Autonomous District and Regional Councils and accords a host of legislative, executive and judicial powers to these autonomous bodies. It applies to certain tribal areas of the

State of Assam, Meghalaya, Tripura and Mizoram. Apart from the Sixth Schedule, there are other constitutional provisions in the Northeast such as Article 371-A in Nagaland which provides autonomy on issues of religious and social practices, customary law, civil and criminal justice and ownership of land and resources. Similar provisions are operational in the State of Mizoram under Article 371-G. Manipur is governed by Article 371-C as well as the Manipur (Hill Areas) District Council Act. Additionally, traditional political institutions are present alongside constitutional bodies. Broadly, there are three types of legal typologies of administration of local self-government in North East States. These are Sixth Schedule Frame, State Legislation Frame, and National Frame. Two types of Autonomous District Councils are found in the Northeast States. These are the Autonomous District Council set up under the Sixth Schedule and Autonomous District Council established by various Acts of the State Legislative Assembly which are not under Sixth Schedule.

The Sixth Schedule

The chapter points out that the original Sixth Schedule areas created in 1952 underwent a drastic reorganization in 1971; some areas were put under newly created States such as Mizoram, Meghalaya which were carved out of the erstwhile Assam State. The Sixth Schedule (Article 244 (2) and 275 (1) provides for administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram through Autonomous District and Regional Councils endowed with legislative, judicial and executive power.

The Sixth Schedule under Article 244 (2) provides for the creation of Autonomous District Councils (ADC) in an Autonomous District and Regional Councils for autonomous regions. These Councils have legislative powers on matters relating to:

- ♦ Allotment, occupation, or the setting apart of land, other than reserved forests, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town (Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied for public purpose.
- ♦ Management of any forest not being a Reserved Forest.
- ♦ Use of any canal or water course for purpose of agriculture
- ♦ Regulation of the practice of jhum or any other form of shifting cultivation
- ♦ Establishment of village or town committees or Councils and their powers
- ♦ Any other matter relating to village or town administration, including village and town police, public health and sanitation
- ♦ Appointment of succession of chiefs or headmen
- ♦ Inheritance of property
- ♦ Marriage and divorce
- ♦ Social custom

The Council has legislative powers over matters such as primary education, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways. The District Council can regulate money lending and trading by non-residents or non-tribal people living in the area. It has the power to collect taxes and tolls on land, buildings and persons, professions, trades, animals, vehicles, boats, entry of goods into the local markets, goods carried on ferries, the maintenance of schools, dispensaries and roads. The ADCs can issue licenses and leases for the prospecting and extraction of minerals and are entitled to get a share of royalties accruing to the State from mineral extraction.

The Sixth Schedule further provides that no Act of the State Legislature shall apply to any autonomous district unless approved by the Council. The Governor of the States under the Sixth Schedule has the power to decide to either apply or not apply any Act of Parliament or the Legislature in the autonomous area of Assam, Tripura and Mizoram. Along with this provision, except in Assam, in all other Scheduled Area of the Northeast region, the President of India has the right to apply or not apply any Act of Parliament or the Legislature on any matter. In addition, the Councils have also judicial power for trial of offences committed by members of the Scheduled Tribes in their respective areas of jurisdiction.

It further says that the Governor has the power to annul or suspend any act or resolution of a District or Regional Council which he finds likely to endanger the safety of India or to be prejudicial to public order. The governor can suspend the Council and exercise all the powers vested in the Council. However, the Governor has to lay such an order before the State Legislature as soon as possible and the order shall, unless revoked by the legislature, continue for a period of twelve months from the date on which it was made.

Statutory Autonomous Councils

The chapter says that there are also Statutory Autonomous Councils in the States of Assam and Manipur. These

have been established by Acts passed in State Legislative Assembly. These can be categorized under the following heads:

1. Autonomous District Councils in Assam
2. Hill District Councils in Manipur

The administrative structure of these Councils is patterned on the Autonomous District and Regional Councils created by the Sixth Schedule. This, however, has added significant confusion in the administration. There are three authorities operating in parallel in these areas, namely, the Council, the State departments and the Panchayati Raj. These Councils cover non-contiguous villages. There are many other communities - both tribals and non-tribals - who have been living before some of these tribes came. The creation of autonomous tribe-specific councils will: i) violate Part IX A of the Constitution, ii) not be exclusive as the dominant tribe will control the AC, and other communities will face real or perceived discrimination, and iii) lend to violent inter-ethnic conflicts.

The Autonomous Council of Manipur has been established by the Manipur (Hill Areas) District Council Act, 1971. According to the Act, all the hill areas of Manipur were to be divided into six Autonomous Districts, each with a district Council. These Councils enjoy executive powers under which they are looking after 26 different subjects. However, the Manipur District Council Act, 1971 did not confer any legislative powers on the concerning Scheduled Tribes such as the appointment and succession of chiefs, inheritance of property, marriage and divorce and social customs. The Manipur District Council Act, 1971, also granted financial power to these District Councils. Under these provisions, the Councils can levy taxes on professions, trades and employment, on animals, vehicles, boats, on the entry of goods into the market for sale and goods for ferries, on the maintenance of schools, dispensaries or roads which the Manipur legislature may, by law, empower the District Council to levy. However, the Council exercises only nominal judicial power, which lies primarily in the hands of the State Government.

Scheduled Tribe Development Councils

There are also Tribe Development Councils in parts of the Northeast. These are:

1. Barak Valley Hills Tribe Development Council
2. Amri Karbi Development Council
3. Mech Kachari Development Council
4. Sarania Kachari Development Council

Ladakh Autonomous Hill Development Council (Leh and Kargil)

The chapter also says that Ladakh is a space known more for its magnificent beauty and inhospitable terrain and less for its strong movements for autonomy and self-rule. This long-standing demand was partially fulfilled in 1995 with the passing of the Ladakh Autonomous Hill Development Council Act which allowed for a measure of autonomy within the Indian State with the Darjeeling Gorkhaland Hill Council set up in 1988 as a model. The initial demand of some Ladakhi activists was, however, for Union Territory (UT) status which was denied - although the call for UT status remains a key electoral issue. The passing of the Act marked the culmination of Ladakhi assertion of autonomy that dates back to the 1940s when debates about acceding to the Indian nation-state were rife but these protests escalated in 1989, under the Ladakhi Buddhist Association.

The region of Ladakh is divided into two districts: Leh and Kargil. In the course of Ladakhi protests for autonomy and development, the Indian government granted almost the entire population of Ladakh Scheduled Tribes status in 1989. As part of the 1995 Act, separate Autonomous Councils were to be formed for the districts of Leh and Kargil.

As part of the Act, powers relating to the planning and implementation of development were transferred from government control at the Central and State levels to the local district level Council. The powers and functions of the Council include:

- ♦ Allotment, use and occupation of land vested in the Council (i.e. all 'wasteland', excludes land classified as forests);
- ♦ Formulation and review of progress of development programmes for the district;
- ♦ Formulation of budget for the district;
- ♦ Formulation of guidelines for implementation of schemes at the grassroots level;
- ♦ Promotion of languages and culture of the area;
- ♦ Management of un-demarcated forests and canals or water courses for agriculture;
- ♦ Tourism planning, promotion, and development;
- ♦ Vocational training;

- ♦ Preservation of the environment and ecology of the area;
- ♦ Rights to levy and collect local taxes and fees, including on grazing, businesses, transport, entertainment, etc. (note, however, there is no specific mention of tourism, one of the central planks of the economy).
- ♦ Power to hire and fire public servants except for the very highest ranks; all government employees (except in the judiciary and police) are "transferred" to the Council, although the government retains its discretion to recall them.

Thus considerable powers have been devolved to the local District Councils which give voice to the peoples' longstanding aspirations for powers of autonomous decision-making on questions of cultural preservation, environmental protection, and development planning. However, there are several shortcomings in the law itself as well as gaps in its implementation which have resulted in considerable disenchantment with the working of the Councils over the past twenty years. Some of the central drawbacks highlighted are:

1. Even though the Council has the power to draw up budgets and development plans, these still require the approval of the State Government prior to implementation. Further, these plans can only be formulated within the principles of the National and State-level Five Year Plans. Together, these implements imply that centralized structures continue to prevail as the State and National Governments have the power to reject or amend the Council's programmes.
2. A large part of the funds for the functioning of the Council flow through the State Government which has often delayed the release of funds, thus effectively putting a halt to most of the Council's activities.
3. Members of the Council are representatives of various mainstream political parties. Therefore, when members of a particular party form the majority in the Council but are the oppositional party at the level of the State Government, the Council is side-lined and various obstacles to its functioning are created by the State administration and the government in power. Thus, the effectiveness of the Council is shaped by the National and State political interests of the day
4. At the local level, much resentment has arisen from the perceived domination of the Council by members of the former nobility, elites working with various non-governmental organizations, and people from Leh town.
5. It has been argued that the structure of the Council further entrenches communal identities through the creation of separate Councils for the Leh and Kargil districts, while ignoring the important linkages between communities as well as divisions of gender, class, and so on within communities.
6. It has been argued that the structure of the Councils further entrenches communal identities through the creation of separate Councils for the Leh and Kargil districts (on the assumption that territory is equivalent to community), while ignoring the important linkages between communities as well as divisions of gender, class, and so on within communities.

The chapter points out that the devolution of power does not, therefore, lead to the empowerment of local communities in any automatic or linear way. The Autonomous Council model in general, does not offer genuine financial autonomy on which political autonomy can be founded. There is a huge discrepancy between the formal rules guaranteeing autonomy and the informal workings of autonomy on the ground. The Councils continue to be heavily dependent on a centralized executive and bureaucratic structure which hamper smooth and independent working of the Councils. More specifically, the political economy of Ladakh is such that the local people have become heavily dependent on external forces on account of the government policies of encouraging tourism and cash cropping, providing huge agricultural subsidies and rations. Further, while territorial autonomy is essential, there are dangers that this model may contribute to discrimination against minority communities through the creation of exclusive spaces for the numerically dominant community within a region. Even within a single community, as can be seen in the Ladakh case, the Councils have been captured by elite groups who have often implemented their own agenda for the region.

Overall Assessment of the Autonomous District Councils (ADCs) under Sixth Schedule

The chapter says that after the creation of full States comprising Sixth Schedule areas - such as in Mizoram and Meghalaya - some commentators have questioned the need for these provisions. In Meghalaya, the State Government has held the view that these Councils ought to stick to their traditional role, which is to protect tribal culture, land identity and refrain from engaging in development activities. In many cases, State Governments have deliberately impeded the functioning of the councils, particularly through blocking the flow of funds to them. One of the serious limitations of the Sixth Schedule has been the fact that the powers given to the Councils to make legislation and implement development programmes have not been matched with financial autonomy to follow this through. As a result, ADCs often have to depend on funds from the Central and State Governments (routed through the State Government) which are often antagonistic toward the work of the ADC. Apart from government sources, the ADCs receive small amount from the collection of taxes and land revenue. In many

States, the issue of financial resource allocation has become bone of contention between the State Government and the ADCs. Further, there is a huge gap between the approved budget and the flow of funds from the State Government to the Council, which adversely affects both the planning and the execution processes.

Furthermore, the structure of the Sixth Schedule is such that the autonomy of the ADCs is seriously restricted in several respects. For example, in Meghalay, the autonomy of the ADC has been curtailed through the insertion of paragraph 12 A into the Constitution which states that all legislations passed by the State Government take precedence over those passed by the Councils. The Commissioners coordinate development programmes and process legislation, making them extremely powerful at the district level. All the activities and departments under the control of the Councils as per the provisions of the Sixth Schedule have not yet been transferred to them and neither have parallel institutions such as the District Rural Development Agencies (DRDA).

The report further says that considerable powers have been handed over to the Governor even in the Sixth Schedule areas which can impede autonomous functioning of the ADCs. The Governor has the power to decide whether laws made by the State Legislature, on matters other than those over which the ADC has legislative powers, will apply to the Autonomous Districts. Moreover, all legislations passed by the ADCs require the assent of the Governor to become law. The Governor also has the power to dissolve the ADC. There is also no mandatory time limit for the reconstitution of ADC once it is dissolved, and hence election is indefinitely postponed. Constitutionally, the ADC should have its own Autonomous Agency. The report also says that while the Seventy-Third Amendment to the Constitution provides for the reservation of one-third of all Panchayat seats at all levels for women, the Councils, unlike Panchayats, do not have any provisions for such reservation. In fact, both the Fifth and Sixth Schedules have been silent on the issue of women's representation and gender justice. As a result, women are almost completely absent from the bodies and institutions created under these provisions. Reservation of a certain number of seats for women representatives in the ADCs must be made mandatory in order to end the exclusion of women from these political institutions. Further, while the Sixth Schedule aims to ensure the protection of customs as well as social and religious practices of tribes, it is necessary to keep in mind the implications of this protection for gender justice. Even though protecting tribal culture is a vital task and central to the objectives of the Sixth Schedule, this is not incompatible with equality and fairness.

Another important issue to be addressed is the question of representation of minority groups within the Councils. Even those groups which are indigenous to the region - such as smaller tribal groups - do not have any role in the ADCs, a situation which must be rectified. Unless reviewed comprehensively, the Sixth Schedule could become one of the chief sources of future conflicts in the region. On comparing the Fifth and Sixth Schedules, it is apparent that the provisions of the Sixth Schedule have given greater powers of political autonomy to the tribes of the Northeast, as was the intention of the Constituent Assembly. On examination of the working of the provisions of the Fifth Schedule, it has become clear that the institutional mechanisms for the protection of the tribes living in Scheduled Areas have failed to meet its stated goals and is in need of serious review. The Governor as well as the Tribes Advisory Councils have not been performing their constitutionally assigned roles in spirit and have failed to adequately represent the interests of tribal communities. However, several clauses of the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 and Forest Rights Act provide for the enlargement of territorial rights and autonomy for Scheduled Tribes which must be fully implemented. On the other hand, while provisions of the Sixth Schedule are extremely commendable, the working of the Autonomous Councils, as has been demonstrated above, has been far from perfect and several aspects of their functioning - most notably, issues of financial and administrative autonomy, freedom from arbitrary government intervention, checks against ethnic sectarianism, greater representation for smaller tribes and women, and so on.

A restructuring of these institutional frameworks will go a long way in addressing the inequality, dispossession and injustice faced by tribal groups since self-governance, protective mechanisms, political representation and autonomous decision-making are critical components within the project to improve the socio-economic status of tribes.

Recommendations

1. Under the recommendation, the Chapter says that there have been laws and policies passed by the Parliament and state Legislatures such as the Forest Conservation Act, 1980, the Wildlife Protection Act, 1972, the Panchayat acts (prior to the passing of the 73rd Amendment in 1992), and so on which have had an adverse and detrimental impact on tribal communities. Yet the Governors have not exercised their constitutional power towards the protection and welfare of the tribal communities. This opens up two possibilities:
 - i. Laws and Policies enacted by the Parliament and Legislatures should not be automatically applied in the Fifth Schedule areas (as was the case under colonial rule or as presently the case in the Sixth Schedule

- areas). Its applicability should be made contingent on the discretion of the Governor who would determine its applicability or non-applicability or applicability with modification/amendments on the advice of Tribes Advisory Council on both applicability and inapplicability of laws and policies.
- ii. In case the above is untenable, the Governor should be mandated to take the advice of the Tribes Advisory Council and examine legislations and policies (particularly, though not exclusively, those pertaining to issues such as forests, land acquisition, conservation, mines and minerals. Health and education) passed by the Parliament or State Legislatures and the implications of the same on tribal welfare. A mechanism for such examination and action should be clearly stated and established.
2. Action taken by the Governor for safeguarding the interests of tribal communities should be clearly mentioned in the annual Governor's Reports submitted to the President. The Governor must be mandated to ensure the timely submission of these reports. To this end, the Governor's office must be adequately assisted by specially set up competent and dedicated team in the form of Governor's Cell for Scheduled Tribes (as has already been initiated in some States).
 3.
 - i. There needs to be a radical restructuring of the composition of the Tribes Advisory Council (TAC). Instead of two-third elected members from the State Legislature, this should be restricted to half the members of the TAC. Moreover, these elected representatives must come from different political parties, rather than only from the ruling party. The remaining one-half should be comprised of Chairpersons of the district Panchayat bodies (or chairpersons of the autonomous Council, wherever established) of the Scheduled Areas on a rotational basis.
 - ii. Tribes Advisory Council should be empowered, made active and responsible for the tribal affairs in the state through the following measures:
 - ♦ The scope and responsibilities of TAC should be widened to transform it into the Tribes Advisory, Protective and Development Council. Constitutional provisions, laws, policies, and administrative matters pertaining to the Scheduled Tribes must come under its ambit.
 - ♦ The tribal development plan of a State and its outlay should be approved by the TAC before it is placed before the Legislative Assembly.
 - ♦ In view of the serious responsibility placed on the TAC, it should be made compulsory for the Council to meet at least four times a year.
 - ♦ The Tribal Welfare Department should be made accountable to the TAC. It should present its annual plan, budget and performance report to the TAC and receive its approval for the next year.
 - ♦ The agenda for the TAC meetings should be prepared through due consultation with members.
 - ♦ The Governor should be made responsible for the overall functioning of the TAC.
 4. The provisions of the Sixth Schedule provide considerable space for autonomy and self-governance. Through the Autonomous Councils, tribals have the opportunity to enact legislations, execute programmes and adjudicate at a scale larger than their individual villages. Such a provision has helped tribes of the Northeast to protect their habit, land, forests, natural resources, culture and identity. They have not experienced displacement and land alienation on the scale that tribes in 'mainland' India have. In view of these powers of political autonomy, the tribal communities in the Northeast region have fared much better in respect of socio-economic, educational and health status. In contrast, the tribes in 'mainland' India have fared miserably in all these spheres. Hence, there is an urgent need for extending the pattern of the Sixth Schedule in the form of Autonomous Councils in the Fifth Schedule areas as has been provided for in the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996. The specific provision notes that, "State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas". This pattern would provide tribal areas an institutional structure that mediates between the State Government and hamlet-level Gram Sabha.
 5. There are various impediments to the smooth and inclusive working of the Autonomous Councils in Sixth Schedule areas which must be addressed. In order to do so, the report proposes the following:
 - ♦ Autonomous Councils must be covered under State Finance Commission that is empowered to review periodically the financial position and lay down appropriate principles of resource distribution between State and the Autonomous Council. Funding should not be left to arbitrary discretion of the State Government.
 - ♦ The ADC should be reconstituted within six months of its dissolution.
 - ♦ There should be provision for reservation for tribal women (one-third) as well as smaller tribal groups in the ADCs and other political institutions.
 - ♦ Traditional political institutions at the village/hamlet level should be formally recognized by the State.

Livelihoods and Employment Status

In this chapter the report says that while some tribal communities have adopted a way of life, similar to the neighbouring communities, there are other tribal groups, whose livelihoods are characterized by (a) forest-based livelihoods, (b) pre-agricultural level of technology, (c) a stagnant and declining population, (d) extremely low literacy and (e) a subsistence level of economy. Plain land agriculture is the means of livelihoods for most of the tribes, even though it is not highly productive. A number of tribes subsist on crafts and cottage industries like basket and rope making, tool making (iron and wooden), spinning and weaving, metal work, iron work, etc. There are certain tribes in India, which depend upon folk art such as singing, barding and dancing, other activities such as tattoo-making, acrobatics and magic/trickery.

Several landless and marginal tribal households are engaged as agricultural labour. With the opening of mines and industries in tribal inhabited regions, tribes in the surrounding areas have taken up non-agricultural labour as the primary source of livelihood. Some tribes from Jharkhand and Chhattisgarh have migrated to the tea estates in Northeast India and to Andaman and Nicobar Islands, in search of unskilled employment.

The chapter further says that over the decades, the tribal economy and the livelihood strategies have undergone substantial changes. Since the tribes were traditionally dependent on natural resources, the change was all the more visible due to the depletion of resources. In the post-independence period, the rapid phase of urbanization and industrialization alienated the tribes from their traditional natural resource base and forced them to search for newer livelihood options. Increase in population among tribes, lower availability of food and alienation from natural habitats, made the tribes dependent on urban markets. Many of them left their homes and migrated to urban areas, in search of income and employment. As a result, the already vulnerable tribes were exposed to all kinds of exploitation and marginalization in the new, unfamiliar urban space. Those who continued to live in their original habitats diversified their occupations to ensure their sustenance.

In respect of Scheduled Tribes in 2003, the land ownership and the intra-class concentration ratio was not adverse (the share of area being higher than the share of holdings) in comparison to all social groups, and their average size of area owned was higher than that of all groups. This may be due to the restrictive land transfer regulation legislations, applicable to the Scheduled Areas in different states. However, it must be noted that alienation of tribal lands may not be fully reflected in the records. Hence, there may be a discrepancy between land ownership on record and actual land ownership of tribal people.

Historically Scheduled Tribes had a customary ownership over forest as well as land closer to their settlements. Since reclamation of forest did not warrant permission from authorities, Scheduled Tribe households reclaimed forest land as per their requirements. Therefore, it is not unusual for the Scheduled Tribe households to own more land as compared to other social groups.

In rural areas, a substantial portion of Scheduled Tribes own very little land. Among them, 12.81 percent of the households own only up to 0.002 hectares of land, while the aggregate of all groups under this category is 10.0 percent. In the marginal category, among Scheduled Tribes 63.16 percent of households own 26.96 percent of land in rural areas, It shows that the marginal category among Scheduled Tribes is less equitable than the all social groups. Significantly, the zero and marginal categories together account for 75.97 percent among Scheduled Tribes, while it is 79.60 percent for all households. In small and above categories, the relative share of area is greater than their respective shares of households for Scheduled Tribes in rural areas. In the marginal category, the average area owned by Scheduled Tribes is 0.33 hectares, but it is only 0.24 hectares among all social groups. Among Scheduled Tribes, the average area owned by small, semi-medium and medium holders, is almost equal to that of the all social groups. Only among large holders, the average size of land owned by Scheduled Tribes is higher than that of the all social groups. In rural and urban areas combined, 16.73 percent of Scheduled Tribe households own 0.002 hectares of land, and 61.13 percent of them own up to two hectares, whereas among all social groups, 20.52 of households are in zero category and 63.77 percent are in marginal category.

Although Scheduled Tribes are better placed compared to all social groups with regard to their possession of Operational Holdings (OHs) and Operated Areas (OAs), their access to cultivated land is on decline over the years. This has been evidenced from the National Sample Survey Organization (NSSO) reports of 2004-2005 and 2010-2011.

Household Assets and Amenities

The chapter points out that assets possessed by households are used as indicators of their socio-economic status. The data on household assets among Scheduled Tribes and all social groups is obtained from the census

of India in 2001 and 2011. Among all social groups, the possession of radio/transistor and landline phone decreased from 2001 to 2011.

In particular, among Scheduled Tribes, 21.77 percent possessed radio/transistors in 2001 and their share decreased to 13.96 percent in 2011. But possession of TVs rose from 12.06 percent in 2001 to 21.51 percent in 2011. This trend of decrease in the share of radio/transistors and increase in the share of TVs indicate that the radio/transistors have been replaced by TVs.

With regard to possession of landline telephone among Scheduled Tribes, it decreased from 2.51 percent in 2001 to 1.95 percent in 2011, but the possession of mobiles among Scheduled Tribes was 30.81 percent in 2011. The possession of telephone came down drastically among all social groups from 9.14 percent in 2001 to 3.93 percent in 2011, whereas the possession of mobiles was 52.45 percent in 2011.

It has been found out that Scheduled Tribes possessed fewer amenities, and the households with no amenities are highest among Scheduled Tribes. The percentage of households with no amenities decreased from 2001 to 2011 among all social groups. This decrease was from 54.03 percent to 37.42 percent and 34.48 percent to 18.55 percent among Scheduled Tribes and all social groups, respectively. This indicates that the possession of the assets among Scheduled Tribes improved over the decade (16.61 percentage points) slightly more than all social groups (15.93 percentage points) between 2001 and 2011.

Over the years, many young Scheduled Tribe persons seasonally migrate to urban centres to work in construction and service sectors. It is likely, when they return home, they carry with them the modern gadgets that contribute to their higher share of possession of assets. In any case, the households without any of the assets among Scheduled Tribes (37.42 percent) is twice that of all social groups (18.55 percent) in 2011, clearly indicating the lack of affordability.

Examining the data on condition of houses among Scheduled Tribes households, 40.62 percent occupied good houses, 53.13 percent of them are in livable condition and 6.25 percent are under dilapidated condition. The comparison of the condition of houses between Scheduled Tribe and all social group households reveals that the houses of Scheduled Tribes are in bad condition. Most of the tribes in urban areas live in slums, in makeshift homes, houses which are more dilapidated compared to the average of all social groups.

As regards sanitation, it has been clearly revealed that Scheduled Tribes lag behind all social groups. 77.4 percent of Scheduled Tribes households do not have latrine facility within the premises, and 74.7 percent of them go for open defecation. Only 22.6 percent of scheduled tribe households have latrine facility within the premises, which is 24.3 percentage points less than that of all social groups.

Value of Assets and Average Asset Value

The chapter also says that among Scheduled Tribes, 44.98 percent of households have bank accounts thus availing banking services, whereas 58.7 percent of all households have the same facility. In rural areas, average value of total assets among Scheduled Tribes is Rs. 1, 36,640 compared to 2, 65,606 for all social groups, which is 94 percent higher than the average value of assets of Scheduled Tribes.

The average value of land and buildings per households for Scheduled Tribes has relatively lower value (Rs. 1,16,281) than that of all social groups (RS. 2,30,280) in rural areas. Among Scheduled Tribes and all social groups, the percentage share of value of land and buildings occupies more than 85 percent with not much variation between these groups. When the percentage share of values of land and buildings is observed separately, Scheduled Tribes have lower share of values of land (61.3 percent) than all social groups (63.2 percent) and marginally higher share values of buildings (23.8 percent) than all social groups (23.5 percent) in rural areas.

Under the **Employment (Formal, Organized and Unorganized Sectors)** category while discussing about **Work Force Participation**, the chapter points out that in rural areas, for Scheduled Tribe males, between 1983 and 1993-1994, Worker Population Ratios (WPR) was between 56.7 percent and 59.1 percent, whereas between 1999-2000 and 2009-2010 its levels decreased to between 55.8 percent and 56.2 percent. What is significant here is that the rural Scheduled Tribe males exhibit higher level of WPR, in each of the rounds than those of all social groups. In 2004-2005 and 2009-2010, the rural male Scheduled Tribes have WPR of 56.2 percent and 55.9 percent as against 54.6 percent and 54.7 percent respectively for all groups. For rural female Scheduled Tribe category, between 1983 and 2004-2005, the WPR was between 43.8 percent (1999-2000) and 48.2 percent (1993-1994). In 2009-2010, the same was 35.9 percent. However, these WPRs are substantially higher than the females of all groups. Thus, WPRs of both rural males and females among Scheduled Tribes are higher than those of their counterparts among all social groups. In urban areas, the WPRs with respect to Scheduled Tribe males, are less than the average of all groups for almost all the years.

The chapter says that another recent survey conducted by Ministry of Labour and Employment also reveals similar trend of WPR among different social groups. The survey confirms the highest WPR among Scheduled Tribe category, which is estimated at 54.7 percent. Under the General category the WPR is lowest, which is estimated at 44.9 percent with the usual principal status approach. The Labour Force Participation Rate (LFPR) based on Usual Principal Status (UPS) approach at all India level is highest among Scheduled Tribes with 56.7 percent, and it is lowest among overall category with 50.9 percent. The female LFPR is highest in case of Scheduled Tribes with 33.6 percent compared to the all India average of 22.6 percent.

Unemployment Rates

The chapter says that the WPRs of Scheduled Tribes are higher among rural males, rural and urban females, the unemployment levels appear less among Scheduled Tribes. In rural areas, (except in 2009-2010), the unemployment rate with respect to Scheduled Tribe males is less than those of all groups. For scheduled Tribe females, the unemployment rates are substantially less than those of all groups.

The report on Third Annual Employment & Unemployment Survey (2012-2013), Vol, 1, Chandigarh Labour Bureau, Ministry of Labour & Employment reveals that the unemployment rate at 3.6 percent at All-India level is lowest in the Scheduled Tribe category, and it is 4.7 percent for overall category.

Under **Employment in Organized Sectors** category while talking about **Employment in Government Sector**, the chapter points out that if the trend of government employment status among Scheduled Tribes from 1978 to 2000 is analyzed, it is very significant to note that the percentage of government employments, including insurance is much below the proportion of Scheduled Tribe population to total population of the country. It could be either due to non-implementation of the provision of reservation provided for Scheduled Tribes or non-availability of suitable candidates for employment or both. With regard to percentage share of Scheduled Tribes in Central Government jobs category-wise it is clear that the percentage of Scheduled Tribes in Group A and Group B services is very meager.

The percentage share of Scheduled Tribes employment in Public Sector Enterprises (PSEs) category-wise between 1871 and 2004, about 0.43 percent of Scheduled Tribes were employed in Group A in 1971, and their employment was raised to 5.27 percent by 2004. Similarly, 0.46 percent of Scheduled Tribes were employed in Group B in 1971, which was increased to 7.84 percent by 2004. This reveals low representation of Scheduled Tribes in Group A and Group B services in PSEs when compared to their proportion of population. In 1971, 36.71 percent of Scheduled Tribes were employed in Group C and 62.39 percent in Group D (excluding sweepers). This trend was reversed in 2004 as the employment status under Group C was raised to 58.87 percent, from 36.71 percent in 1971. Concurrently, Group D employment decreased to 28.02 percent in 2004 against 62.39 percent in 1971.

As far as the representation of Scheduled Tribes in Public Sector Banks, Financial Institutions and Insurance Companies as on 31st December 2012, out of the total employees of 422520 under Group A and Group B (Officers) from 39 Banks, Financial Institutions and Insurance Companies, 27660 were from Scheduled Tribe category. It accounts for 6.55 percent, which is less than the mandatory 7.5 percent of Scheduled Tribe reservations to be followed by these Institutions.

As the Government informed the Lok Sabha on 5.12.2012, the representation of Scheduled Tribes in Central Government employment as on 1.1.2011 was 4.8 percent (3734) in Group A, 6 percent (11357) in Group B, 7.7 percent (174562) in Group C, and 6.8 percent (32791) in Group D (including Safai Karmacharis), as per Asian Centre for Human Rights (ACHR) report, 2013. As of 8 May 2013, a total of 29037 backlog vacancies for Scheduled Tribes in the Central Government were identified. Out of them, a total of 16842 were filled up. The remaining 12195 vacancies are pending unfilled. These account for 44.36 percent of the total backlog vacancies of 27488 for all social categories.

ACHR report further states that the representation of Scheduled Tribes in Central Universities is very low as per the data provided by the UGC. The evidence reveals under-representation of Scheduled Tribes and pending vacancies in Central Government services. The main reason for this is lack of seriousness in the implementation of the provisions of reservation for Scheduled Tribes.

While discussing about **Representation in Unorganized Sector**, the chapter says that Own Account Enterprises (OAE) are run by household with their own labour. Establishments are those enterprises that engage at least one hired labourer on a fairly regular basis.

In OAEs in rural India, Scheduled Tribes have the least share of 3.5 percent compared to 28.8 percent share recorded for others. In urban areas, Scheduled Tribe share is even less at 1.4 percent against 47 percent

recorded for others. In the combined (R and U) areas, the scenario is same as in the rural areas, as the number of OAEs in rural areas is about 2/3rd of the total OAEs, rural and urban combined.

In establishments in rural, urban and combined areas, Scheduled Tribes are nowhere near others. In rural areas, Scheduled Tribes have only 2.4 percent compared to 47.6 percent recorded in 'others', while in urban areas Scheduled Tribes have only one percent enterprises as against 67.6 percent for others. Hence, the inequality of distribution of enterprises between Scheduled Tribes and others is more visible and dominant in urban areas, even though rural areas also show substantial gap between Scheduled Tribes and others.

Employment under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

The chapter points out that the employment under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, which came into effect from 2 February 2006, is meant for providing employment for scheduled Tribes, Scheduled Castes and other categories of rural people. However, the participation of Scheduled Tribes in this scheme has been decreasing from its inception in 2006. The person-days of employment generated for Scheduled Tribes for the year 2006-2007 was 36 percent, and it came down to 17.19 percent in the year 2013-2014 (16 percent till 13 December). This decrease is despite the fact of increasing the total person-days, besides more job cards issued and more employment provided to households over the years. It reveals that though there is some increase in person-days for Scheduled Tribes against the total person-days for some years (between 2007-2008 and 2009-2010), their share is less than that of the total person-days.

According to recent NSSO survey, self-employment in agriculture is the dominant source of income among 31.9 percent of all groups of households. Among Scheduled Tribes also agriculture is the predominant occupation among 37 percent of the households. Non-agricultural self-employment is the lowest among Scheduled Tribes (7 percent) than that of all groups (15.5 percent). Similarly, the 'other labour' is the lowest among Scheduled Tribes (13.1 percent) than that of all groups (14.8 percent). At the aggregate level, 44 percent of Scheduled Tribes were self-employed, compared to 47.4 percent at all India average. While 46.5 percent of Scheduled Tribes are engaged in rural labour, the all India average under this category stands at 40.4 percent. This indicates that a considerable portion of Scheduled Tribes is engaged in rural labour, although almost an equal proportion of them are self-employed.

While talking about **Income and Expenditure**, the chapter says that despite changes in access to education and affirmative action, social groups that were traditionally at the lowest rung of the social hierarchy are still economically worse off. It further says that Scheduled Tribes households have the lowest annual income of Rs. 32,345 compared to general population. Also the proportion of poor among the Scheduled Tribe is comparatively higher than general population, as half of the tribal population is poor, compared to just 12.0 percent of general population. Even states which have a large tribal population have comparatively lower household incomes than other states. According to a survey carried out by Indian Human Development (IHD), states in central India (Bihar, UP, Madhya Pradesh) have the lowest regional household incomes, while the lowest incomes are in Odisha. Households in these Central Indian States and Odisha have only half of the incomes of those in northern plains. It can be seen that except UP, rest of the states have a higher proportion of tribal population than others. The proportion of households deriving income from salary is lowest among Scheduled Tribes (15 percent), while their dependence on agricultural wages (30 percent) and non-farm wages (22 percent) is higher than that of general population. In fact, close to half of Scheduled Tribe households derive their income from either agricultural wage or cultivation.

According to NSSO report, 1999-2000, income sources of Scheduled Tribes in rural areas from agriculture/fishing and other agriculture enterprises is comparatively higher than other social groups at the all-India level. Even while other social groups, derived higher proportion of their income from more consistent sources like rent, pension, non-agriculture enterprises and interests and dividends, the access to these sources of income for Scheduled Tribes is comparatively less. The situation is more striking among the states that have a higher concentration of Scheduled Tribe population, as the dependency on traditional sources for income is comparatively higher among these states than at the all-India level.

As far as the monthly per capita expenditure (MPCE) among different social groups at the all-India levels, Scheduled Tribes reported close to 15 percent less expenditure than other social groups and 32 percent less than households in the other category.

Going through the data, it can be observed that at the all-India level, the expenditure of Scheduled Tribes concerned, is predominantly in the range of Rs. 120 to 235, whereas the per capita expenditure for all social groups is mostly above Rs. 210. As income is directly linked to expenditure, we may conclude that the income sources of Scheduled Tribes are comparatively less than others. In rural and urban areas combined, the gap between the MPCEs of Scheduled Tribes and others is similar to that of the general trend exhibited, as it

increased in 2004-2005 to again stabilize at initial levels in the latest round (2009-2010). However, comparing all groups and Scheduled Tribes in this rural and urban segment, we need to notice that the gap has increased over the years from 38.6 percent (1999-2000) to 47.6 percent and 58.8 percent during 2004-2005 and 2009-2010 respectively.

The chapter further talks about **Poverty Profile**. It says that in rural India, in 1993-1994 poverty rate was very high, at 50.3 percent at the overall level. Among Scheduled Tribes, it was quite high with 65.9 percent. If we consider the reduction in the poverty levels between 1993-1994 and 2004-2005, only Scheduled Tribes lagged behind all social groups. It is observed that Scheduled Tribes have poverty rate reduction by only 3.7 percent points, whereas for all groups it was around 8.5 percent. By 2009-2010, the reduction rates were substantial across all the groups between 2004-2005 and 2009-2010; and scheduled Tribes also recorded a remarkable reduction. But poverty rate among Scheduled Tribes was high with 47.4 percent. Further, between 2009-2010 and 2011-2012, only Scheduled Tribes had less progress with a reduction of only 2.1 percent points, while all other groups exhibited substantial reductions in poverty rate. In urban areas also, decline in poverty rates is similar to that of rural areas.

Panagariya and More (2013) sharply point out that the second period (i.e., 2004-2005 to 2011-2012) has been more favourable in reducing the rates of poverty than the first period (i.e., 1993-1994 to 2004-2005). They account for this on the ground that the second period due to its better economic growth could bring broad-based benefit to all sections of the society. In this connection, the Planning Commission too has held a view which is not dissimilar to theirs. The formula adopted by them has, however, been the subject of much dispute and contestation. As reported in the Hindu newspaper in March 2012.

"The Planning Commission on Monday released the latest poverty estimates for the country showing a decline in the incidence of poverty by 7.3 percent over the past five years and stating that anyone with a daily consumption expenditure of Rs. 28.35 and Rs. 22.42 in urban and rural areas respectively is above the poverty line.

The new poverty estimates for 2011-2012 will only add to the furor triggered by the Commission's affidavit in the Supreme Court in October (2011) in which the BPL cap was pegged at an expenditure of Rs.32 and Rs. 26 by an individual in the urban and rural areas respectively at the going rate of inflation in 2010-2011."

Average Debt and Incidence of Indebtedness

The chapter says that in rural areas, if the distribution of total debt in relation to the distribution of households, is seen the share of total debt in relation to their share of households is relatively small among Scheduled Tribes. Further, inter-class concentration ratio is quite less for Scheduled Tribes (39.21 percent). The data also reflects the average debt of Scheduled Tribes (Rs. 3205), which is lower than that of all social groups (Rs. 7539). Debt asset ratio among Scheduled Tribes (2.3) is lower than the aggregate (2.8) in rural areas. As regards the Incidence of Indebtedness (IOI), Scheduled Tribes have the least share (17.9 percent), whereas all social groups have higher share of IOI to the tune of 26.5 percent.

The chapter concludes with a number of **Recommendations**, these are:

1. There is a dire need to establish agro-based training institutions and related labour-intensive processing industries in tribal regions. Terms and quantum of micro-credit should be made reasonable for individuals, Self Help Groups (SHGs), Cooperative Institutions and Gram Sabhas in Scheduled Areas for the tribes to pursue these occupations
2. In order to make use of land available with the tribal farmers, they should be motivated to undertake organic farming and eco-forestry.
3. Although majority of STs have land and cultivation is their main occupation, water for agriculture is the greatest impediment in production. Micro-watershed development programme with people-centred participatory approach is a good method for poverty reduction through natural resource management in tribal region. Therefore, micro watershed should be given top-most priority in tribal areas to enhance agricultural productivity.
4. It is imperative to strategize water management in degraded and undulating land, dependent on erratic monsoon. Water conservation through larg dams has been proved contrary to the interests of the tribes. Therefore, the best strategy would be to construct water harvesting structures on various small and large water sources.
5. The deprivation of STs of cultivated land adds to their marginalization and penury. This warrants the prevention of all kinds of tribal land alienation through strict enforcement of laws and restoration of alienated land to the tribal owners as per the provisions of the PESA and the confirmatory Acts by various States. There should be monitoring agencies at the National and State levels to prevent alienation of tribal land and its restoration.

6. Since tribal inhabited regions have good forest cover (with or without trees now), they should be allowed to participate in the protection and management of forests. The newly acquired land under FRA, 2006 could be utilized in eco-forestry rather than for food grain cultivation, which could give more return to the ST farmers, in case they want to opt for it.
7. Credit and marketing facilities need to be extended to the STs.
8. There is severe under-representation of STs and pending vacancies in Central Government services. As far as the representation of STs in Public Sector Banks, Financial Institutions and Insurance Companies, STs account for 6.55 percent, which is less than the mandatory 7.5 percent of ST representations to be followed by these institutions. Therefore, the Government should follow a transparent policy with regard to jobs for STs in public sector. No ST candidate who fulfills the basic eligibility criteria for a specific post should be rejected on the ground of no suitable candidates found.
9. The discriminatory credit policy of the financial institutions is a major deterrent in the participation of STs in business. Entrepreneurs among STs must be given credit facility on par with other social groups. Further, all steps must be taken by the Government for skill development among the tribal youth to make them employable or self-employed, according to their aspirations.
10. The participation of STs in MGNREGA has been decreasing from its inception in 2006. This trend is very disturbing, which should be investigated and monitored by a special agency under the administrative control of Ministry of Tribal affairs (MoTA).
11. Tribals should be encouraged to use their traditional knowledge to meet their needs by recreating their forest ecosystem and forest-based livelihood.
12. The Particularly Vulnerable Tribal Groups (PVTGs) among the tribes need special attention due to their vulnerability in the present situation. Their customary right to land, forest and sources of livelihood must be respected and protected. The issue of nomenclature must be addressed by commissioning a special study. MoTA should ensure that all states having PVTGs should take steps to have micro-projects for individual PVTG to utilize the grants received under SCA. The Project Offices for PVTGs should be made to report to the MoTA about the development activities undertaken for the PVTGs under their jurisdiction, rather than submitting allocation and expenditure statements.
13. Data on development parameters with respect to STs are not available for the purpose of policy planning and implementation. Therefore, National Institute of Tribal Development, an autonomous research organization, has to be set up exclusively for undertaking research on STs.

Education

The report says that an interface of the Government policy of educating the tribals of India and their actual educational status. It traces the evolution of the Government policy, detailing perceptions about education for tribals and measures taken by the Government to address the situation.

It presents the post-1992 educational developments at the three basic levels of education, namely, primary, secondary and tertiary. But given the complex nature of the problem at the primary level in large parts of tribal India - which has a bearing upon low tribal participation at the secondary and tertiary levels - special attention is paid to primary education.

Evolution of Educational Policy

The chapter says that the significant presence of tribal people in formal schooling owed to the British colonial educational policy, which did not care for the tribal population. Under the well-known colonial 'filtration' theory, education had to trickle down to the masses through the upper classes, who would be the first to be educated at centrally located model institutions. In certain cases, the Government bypassed the filtration route and opened schools in the interior tribal areas, in order to pacify the tribal population, who were protesting against oppression, by teaching them the colonial idea of rule by law.

The opening of schools in difficult areas of tribal habitation involved extra investment. It also demanded special efforts by committed staff, since the tribal people were not used to any organized system of education and did not appreciate the value of colonial Western education. Lack of sufficient educational avenues left the tribal people lagging behind other social groups. Against the background of neglected British colonialism, the nation's move to reach out to the tribal people educationally through an aggressive programme of mass education was a bold move.

Two Commissions of the Government, namely the Scheduled Areas and Scheduled Tribes Commission (1960-1961), chaired by Shri. U. N. Dhebar, and the Indian Education Commission (1964-1966) closely examine the low educational level of the tribals, with a view to address the disparity. The Dhebar Commission studied the

difficulties of and barriers to tribal education in detail. It found that the problem of absenteeism, stagnation and drop-outs among the tribals were far greater than among other social groups.

Policy Review by Dhebar Commission, 1960

The chapter further says that the Dhebar Commission went on to establish the appropriateness of Mahatma Gandhi's concept of 'basic education' to the tribal societies. Gandhi's concept centred on craft as the means of teaching and learning, and using the vernacular language as the medium of instruction. Conceived to educate the population, the idea was an alternative to formal, literary and colonial Western system of education. But, detailed pedagogy along the lines of what Gandhi suggested was not formulated, especially in the context of the tribal societies.

Besides examining the central problem of approach of tribal education and role of teachers in the system, the Commission attended to other problems such as poverty-related issues and children engaged in household work. This paved the way for the making of a broader policy of tribal education. The Commission, thus, stressed the mid-day meals, clothing, free books, reading and writing materials to all tribal children in educationally backward areas. The Commission further considered the children's difficulties on account of topographical factors and recommended opening schools in a locality where there were at least 30 school-going children, though the general norm should be a school within one mile. The Commission then suggested adjustment of timing, vacations and holidays of schools to suit the tribal social and cultural life. It even proposed creation of an ambience of tribal culture in the schools.

The Indian Education Commission endorsed the suggestions and recommendations of the Dhebar Commission, adding a note of urgency that 'intensive efforts' need to be made to provide five years of early education to all tribal children by 1975-1976. In order to achieve this, the Commission wanted the support of simultaneous intensive parental education.

Further while talking about the **Sluggish Trend of Growth**, the chapter points out that the Education Commission's plea remained unfulfilled. Literacy rate increased from 8.54 in 1961 to 11.3 percent in 1971, rising marginally to 16.35 percent in 1981. Within this, tribal female literacy was much lower, at 4.85 percent in 1971 and 8.04 percent in 1981. Three decades of experience of tribal education (1951-1981) indicated clear trends at the primary level: first, the tribals' educational status grew at a slow pace; second, there was a wide gap between the literacy rate of the tribals and the general population; and third, there was a high dropout rate, especially at the primary level; the drop-out was of chronic nature as the country-wide data portrays. With 91.65 percent of the tribal students dropping out by class X, their higher education also suffered.

Then the chapter talks about **Early Educational Planning**. It says that periodic government surveys and assessments revealed stark facts on poor educational status of the tribals. The Fourth All India Educational Survey, (1978) for instance, found that 83 percent of the tribal people were covered by a school within a radius of one kilometer. At the same time, more than 25,000 tribal habitats had no school at all. As far as secondary schooling was concerned, 82.18 percent of the tribal population was within eight kilometers reach of secondary school, while only 18.8 percent of them had access to higher secondary school. In the case of tribal habitats, often circled by forests and hills, the distance of one or eight kilometers did not present the real picture of access to schools.

During the First Five Year Plan period, the government attended to 'pre-matric' and 'post-matric' educational needs of the tribals. Some 4000 schools were established in the tribal areas. This included 1000 Ashrams and Sevashrams Schools and 650 Sanskar Kendras, Balwadis and Community Centres in the central tribal belt between Odisha in the east and Rajasthan and Maharashtra in the west. Besides, assistance was given to tribal students by way of scholarships, grants, hostel fees, etc. The Second Five Year Plan carried forward in similar line. The government interest seemed to have been more on secondary, higher secondary level and higher education.

The government, in this initial phase, paid special attention to educational grooming of the tribal children in Ashrams, viz. hostels and residential schools, segregating them from their homes and habitats. The consideration occasionally was to bring children to relatively central locality from remote parts where opening school was immediately not possible. But guiding principle was that the tribal people were savage and wild, who needed to be civilized by the means of education outside the tribal social and cultural life. With this in mind, a step further in the direction of Ashram proposition was opening of the 'Sanskar Kendras' to re-orient children in upper-caste Hindu cultural norms. Such importance assigned to residential school concept, led, later on, to the tendency of Ashramization of the whole programme of tribal education.

The Sixth Five Year Plan (1980-1985) estimated that 56 percent of the tribal children of the country (49 percent

boys and 70 percent girls) were yet to receive elementary education. After deliberating on the previous challenges, a National Policy on Education was framed in 1986.

National Policy on Education, 1986

The chapter says that to realize the universalization of elementary education, the National Policy, 1986, continuing presently, reiterates the earlier resolve to ensure that 'up to a given level, all students, irrespective of caste, creed, location or sex, have access to education of a comparable quality. The Policy suggests that government initiate appropriately funded programmes. For implementing equal opportunity in letter and spirit, not only access is emphasized, but the conditions for success are also to be created. The Union Government shoulders the responsibility of re-enforcing the national and integrative character of education and maintaining quality and standards.

The education for tribal masses receives special attention from the government in the policy. By the 1980s, educational planners were clear about the problem of tribals at this stage - poor school facilities, unrelated curriculum, poor method of teaching and poverty - all of which were discussed at length by the Dhebar Commission. Based on an understanding of these problems, the 1986 Policy recommended a number of measures. Given the fact that ten percent of rural habitations yet to be covered by primary school within radius of one km were largely tribal habitations in the interior areas, the government prioritized construction of school buildings under schemes like the Jawahar Rojgar Yojana, Tribal Welfare Schemes, etc.

The chapter further says that the government launched Operation Blackboard in 1987 and National Literacy Mission in 1988. The Literacy Mission aimed to create a positive outlook among the adult population to encourage the compulsory elementary education of children. Operation Blackboard was meant for providing basic infrastructure and essentials of schooling like classrooms, teachers and so on. Further, a scheme of Restructuring and Reorganization of Teacher Education was taken up in 1987. Complementing the work of the Ministry of Human Resource Development, the government launched in 1990-1991, under its tribal division, fresh Ashram Schools from the primary to secondary level in Tribal Sub-Plan areas on equal fund sharing arrangement between Centre and the States.

After the policy exercise was complete, the government drew out a Programme of Action (1992). Important steps listed in the Programme in the interest of the tribals were:

- ♦ provision of primary school or other suitable institution in every tribal habitation before the end of the Eight Five Year Plan (1992-1997)
- ♦ implementation of educational plan in an integrated manner by the coordination of Bawadis, non-formal education, adult education and elementary education under an Educational Complex
- ♦ making teachers responsible for enrolment drives at the beginning of academic session with the help of voluntary agencies and local communities
- ♦ covering, under Operational Blackboard, within two years, all schools in tribal areas, irrespective of the date on which they were set up
- ♦ preparation of instructional materials in tribal languages with a view to teaching them through tribal languages in the initial stage with a provision for transition to regional languages
- ♦ linking rates of pre-matric and post-matric scholarships with the increase in the cost of living index, and disbursing scholarships to students of upper primary school level and above through banks/post-offices, in advance on the first day of each month
- ♦ organization of special coaching, training and remedial teaching classes in order to enhance scholastic achievement, and providing residential facility to those preparing for competitive examinations
- ♦ giving additional scholarships to girl students at secondary and senior secondary stage, and providing them special coaching and remedial classes
- ♦ providing quality reading material in cheap rate from Indian and foreign languages by abridging, adapting and translating, and lastly
- ♦ raising teachers from community to meet the shortage of teachers, through short courses, specifying District Institutes of Educational Training for teacher training on a large scale with a long-term perspective

Flagship Programmes at Three Levels

The chapter points out that since the year 2000, three missions, one each on elementary education, secondary education and higher education, called 'Sarva Shiksha Abhiyan', 'Rashtriya Madhyamik Abhiyan', and 'Rashtriya Uchchatar Shiksha Abhiyan' respectively, have been launched. Each mission takes care of the tribal interest in various ways. Most of the measures are beyond the routine government policy of positive discrimination. The missions, thus, promise to break the long-standing stalemate of unsatisfactory participation of the tribals at

different levels of education.

The first, 'Sarva Shiksha Abhiyan, has been introduced for the achievement of Univesalization of Elementary Education in time-bound manner, which is a scheme of the Centre in partnership with the States, addressing the needs of 192 million children in 1.1 habitations. The target of the programme was to enable all children complete five years of primary schooling by the year 2007 and eight years of schooling by 2010.

The Government strengthened the education policy through the Constitution (Eighty-Sixth Amendment) Act, 2002, making free and compulsory education of the children of age-group, 6-14 years, a Fundamental Right. The Government worked out clear norms on various matters ranging from Centre-State cost-sharing to teacher-student ratio, school space, distribution of free study materials, and so on. To make the project a success, the Government ensured sustained financing. Another important initiative was the establishment of residential upper-primary schools, called Kasturba Gandhi Balika Vidyalaya, for 'hard to reach' girls, which would largely comprise tribals. These schools were meant for educationally backward blocks. In the first phase, 750 such residential schools were planned.

Confident of having built a sound base of primary education, the Government mooted a national mission at the secondary level of schooling, since 2005 under the forums of the Central Advisory Board of education and the Planning Commission. Finally, the mission, 'Rashtriya Madhyamik Shiksha Abhiyan', was inaugurated in 2009. The Government made the case for the mission from the statement of the National Policy, 1986 that the access to secondary education would be widened 'with emphasis on enrolment of girls, Scheduled Castes and Scheduled Tribes, particularly in science, commerce and vocational streams'.

The latest mission, 'The Rashtriya Uchcharat Siksha Abhiyan', was initiated in September, 2013, alongside introducing the Rajiv Gandhi Fellowship, Centres for Studies in Discrimination and Exclusion, Indira Gandhi National Tribal University and a number of Central Universities, more Indian Institutes of Technology and Indian Institute of Management in the interest of the weaker sections and the tribals.

While talking about **Outcome of the Mission**, the chapter says that an assessment of the programmes that, in many respects, there has been an improvement across the education levels, as the following observations indicate:

- ◆ The gap between Scheduled Castes and Scheduled Tribes and other social groups in terms of access to school education has significantly narrowed down. Under Sarva Shiksha Abhiyan specially, massive infrastructure development took place. The number of schools and teachers has increased. Over three lakh new schools were opened and existing schools were equipped with basic facilities. The average student-classroom ratio came down from 39 in 2005-2006 to 32 in 2009-2010. The chief beneficiaries of these developments were the tribal regions.
- ◆ The available data shows that between 1993-1994 and 2007-2008, the number of tribal households within one kilometer of the vicinity of primary school rose from 77.12 percent to 88.46 percent. The rise was discernible more in the rural areas, where it rose from 73.86 percent to 88 percent. Similar trends can be seen at the upper primary and secondary level of schooling.
- ◆ The trend of enrolment of the tribals at different stages of education shows that there is a steady decadal rise. When compared with the Scheduled Castes and the general categories, the growth of Scheduled Tribes enrolment is most steady. On Gross Enrolment Ratio corroborates the trend of continuous rise of Schedules Tribes enrolment at all levels of education.
- ◆ Available statistics show that the Government efforts in the last two decades have been able to contain the drop-out rates. The rate has almost continuously declined. The incidence is specially checked in the initial stage, namely, Class I-VIII.
- ◆ Related to the above, there is decline in the number out-of-school children.

A long Way to Go

Under this, the chapter points out that there has been a decline in the percentage of out-of-school children across gender and social categories, tribal children still need greater and focused attention in this regard. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas. Some of the most educationally backward states in central India, for instance, Madhya Pradesh and Jharkhand have the lowest student attendance rate (below 60 percent). To make matters worse, the old problem of teacher absenteeism, that the tribal areas are known for, persists.

There is long way to go with respect to infrastructural facilities. Improvement of the quality of education has not been cared for sufficiently. The neglect has resulted in poor level of student learning. The most disturbing trend is steadiness of decline of the tribal children's learning level. The Annual Status Education Report (ASER),

covering 550 rural districts, reveals that 93 percent of students of Class V were unable to read Class II textbook contents in 2013 whereas, in 2005, it was 97 percent. The situation, at the elementary school level, has given rise to the 'model of minimum levels of learning', which is reduced to mere literacy.

The chapter further says that the low level of learning at the early schooling stage accumulates and is covered up by the no-detention policy up to Class VIII level. It is ultimately expressed at the secondary level, where students from the tribal groups constitute the highest proportion of failed candidates or low scorers in the Class X board examinations. The high drop-out rate that one observes at the Class X level is actually, the high failure rate of the tribal children. One of the factors behind this is the poor quality and inadequate number of teachers. There are a large number of schools that do not comply with Right of Children to Free and Compulsory Education (RTE) Act, 2009, norms on parent-teacher ratio.

Education as a Site of Discrimination

Under this, the chapter says that traditionally, education has been an area of discrimination against dalits and tribals. Of late, in the changing situation, there seems to be a rise in this trend. The National Policy was supposed to provide relief to children from disadvantaged groups. In case of the tribal children, however, teaching-learning is not always friendly. The classrooms are not free from the traditional social prejudice against the tribal children. In a recent report, Human Rights Watch records that the Ghasiya tribal children of Sonbhadra District in Uttar Pradesh were made to sit in a single grade irrespective of their ages, that also separately from the other students. The Principal of the concerned school stated that the tribal children were a 'big problem' in the school. Such prejudice not only precludes the potential for tribal children learning in the classroom, it also perpetuates discrimination and exclusion.

While discussing discrimination at the level of school education, one cannot refrain from pointing out the phenomenon in the area of higher education. The reaching of a insignificant number of tribal students in the portals of higher education is grudged by students from upper castes. To stop the tribals' entry, various ways are adopted. Once the tribal students manage to take admission, they are humiliated in various ways so they are demoralized. The Government takes several measures to protect the tribal students. But, in most of the cases, the measures are poorly implemented. Anti-tribal psyche is stronger in higher technical institutes. This is revealed by reports of various Government enquiry committees.

Facts Behind Free Education

The chapter says that as the poorest section of Indian society, tribals are largely not capable of paying for education. Yet, in the event of deficient 'free' education, they are inclined to pay for education outside the government system. The expenditure on tuition and other fees (school, college etc), private tutors and coaching centres constitute the largest share of educational expenditure. The tribals have highest expenditure on these elements, even in rural areas. The tribals' opting for private education is not necessarily a push factor of the rise of income. It reflects actually their aspiration for better life through the route of education. Exploiting the situation, 'public' (private) schools have mushroomed in the rural areas, even in parts of interior tribal areas. The private ventures are primarily guided by commercial interests. Unsuspecting tribals do not even know that most of them are unorganized and of inferior quality. They are, thus, left cheated and disenchanted.

It also says that the crunch of state funding on people's education has been long-standing. The special provision of Tribal Sub-Plan funding for the tribals has been of help. The report noted earlier that elementary education, which is supposed to initiate the masses into the education system, has traditionally received a raw deal by the country's planners. Ironically, since the beginning of the new initiatives in this areas under the National Policy, 1996, the Government has developed dependency on international and private capital. Thus, many large programmes like the Centre's District Primary Education programme and Rajasthan's Lok Jumbish and Madhya Pradesh's Education Guarantee Scheme are funded by international agencies such as World Bank, UNICEF and European Union. These programmes, run through non-governmental agencies, do not always deliver quality education. If not monitored properly, sometimes they may invite risk to national interest since they influence the direction, contents and priorities set by the nation.

The Right of Children to Free and Compulsory Education Act, 2009

The chapter states that faced with unending problems of enrolment, retention and quality education to the masses and prodded by the Supreme Court in the Unnikrishnan case, the Government brought the Right of Children to Free and Compulsory Education Act, 2009 in order to strengthen its hands.

It further says that though a right act at a right time, its implementation generally and particularly in respect to the tribals is a daunting task for the Government. The neighbourhood schooling is bound to be most contentious

since public schools are reluctant to admit students from the weaker sections. As for re-admission of the out-of-school children, the implementation is no less problematic. A school principal in a backward district states: "If a child comes to us for enrolment in school when he is ten years old and hasn't learned the basics, then we put the child's age as six years and enroll him in Class I". His plea is that putting him in the class of his appropriate age would need special attention which would be at the cost of teaching other students.

Teachers and Way of Teaching Tribal Children

Under this topic, the chapter points out that along with the shortage of teachers, the quality of teachers and their approach and method of teaching has been a serious issue that engaged the Dhebar Commission half a century back. Recently, the subject has been the concern of the National Curriculum Framework, 2005. Both have underscored the need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For intimate orientation and training of teachers, the Dhebar Commission even insisted on teacher training centres being located in the tribal areas. The crux of this idea was not recognized in the succeeding years. The Programme of Action, 1992 actually came with the idea of raising teachers with 'crash course' to meet the shortage of teachers in the tribal areas.

Equally important is the need of production of teaching materials in tribal languages in the interest of a large number of early tribal learners. But indication is that there is not much effort in developing curricula and devising instructional materials, keeping in mind socio-cultural milieu of the tribals. The National Sample Survey data reveals that the tribal languages listed in the Eighth Schedule, viz., Bodo, Dogri and Santhal are educationally used merely by 0.11 percent, 0.02 percent and 0.01 percent of the tribals respectively.

The viability of developing instructional materials in the tribal languages and their use is proved by stray experiments in the Northeast and elsewhere. The role of the nodal institutions like the NCERT and similar State institutions leaves much to be desired.

Residential Schools and the Tribals

The chapter says that as a way of providing quality education to the tribals in an efficient manner, the Government has been, from the 1950s to the present policy, opening residential schools and hostels for them at central places. Ashram School, Eklavya Model School and Kasturba Gandhi Balika Vidyalaya are leading schemes under this approach. What has come as a standard approach, it is generally found that there is 'cultural discontinuity' between school environment and social life of the children back home. The problem was first pointed out by the Scheduled Caste and Scheduled Tribe Commission in 1987 and later, by the framers of the National Curriculum Framework, 2005. Citing authoritative studies, the latter document claims that, in the event of school environment and functioning being in tune with the tribal cultural life, performance of the student is better.

While such coordination is not forthcoming, the tribal residential schools and hostels remain commonplace institutions. They are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.

Educational Domain and Knowledge on Tribes

Under this the chapter says that that the National Policy, 1986 wanted a more proactive role of the education system. It suggested: 'The curriculum at all stages will be designed to create an awareness of the rich cultural identity of the tribal people as also their enormous creative talent'. Such effort would be in the spirit of the national system of education that was capable of accommodating country's cultural diversity while ensuring certain common national values.

Despite this policy enunciation, tribes as a subject figure insignificantly in the school curriculum. There is dearth of textbook materials and of advanced knowledge on the tribes. This makes tribes the most misunderstood social group of the country. University Grand Commission should provide special scholarships and fellowships for higher studies and research related to tribal culture, literature, etc. At least, one Tribal Chair needs to be established by the UGC in universities in every State comprising Fifth Schedule Areas. While the Ministry of Tribal Affairs is now supporting scholarships for students belonging to the tribals, the UGC and the MoTA should support scholarships for tribal studies for non-tribal students also.

Contemporary Concerns in Tribal Education

The chapter points out that the literacy rate of tribal people has been lower than the entire population. During the period, 1961 to 2011, the gap in literacy rate between Scheduled Tribes and the whole population increased from 19.8 percent in 1961 to 27.2 percent in 1981 and has declined to 14.6 percent in 2011. The gap can be said to be persisting. However, contemporary concerns on tribal education are more complex than mere literacy. Absenteeism

of teachers in schools in remote areas has increased. Left Wing Extremism and inter-ethnic violence has resulted in further absenteeism and there is a need to adopt different strategies for addressing these issues. Security of children, particularly girls, has become a concern in many locations. Aspiration for higher education has led the government to institute scholarships for tribal students, but the uptake has been low due to weak education at primary and secondary levels that create disadvantages for higher education. This is particularly so, in the case of science, Medicine and Engineering streams.

Incidence of High Dropout Rates

The chapter says that dropout rates among the tribal students, particularly at the secondary and senior secondary stages, are very high. With dropout rates of 73 percent at Class X, 84 percent at Class XI and 86 percent at Class XII, higher education also suffers. No-detention policy, before and after TRE Act, does not allow students from the tribal community to acquire basic skills in Three Rs (Reading, Writing and Arithmetic). Lack of such basic skills in language and arithmetic creates huge barriers for their further studies. This absence of background education is also a cause of dropouts. Therefore, the policy of non-detention needs a review. The policy of work education at the primary and vocational education at the secondary and senior secondary levels needs further integration and strengthening.

The chapter further says that vacations in the tribal schools should be realigned with the local festivals. Long duration summer vacation happens to be critical period for mass dropouts not only in tribal areas, but also in all rural areas. This period should be gainfully utilized for conducting remedial classes, special coaching and skill development. Institutions of Integrated Tribal Development Affairs (ITDA) and Integrated Tribal Development Programmes (ITDP) and micro projects support to the tribal schools should be strengthened to prevent dropouts.

No-detention Policy

The chapter recommends that this policy should be reviewed and certainly should be taken out of RTE Act, 2009. When the students, teachers, or parents of the students request for retention of a child to enable him/her to acquire skills to move to the next class, he/she should be retained.

Shortage of 'Quality' Teachers

The chapter says that in the 1950s and the 1960s, Ashram Schools at primary level were introduced in tribal habitations. The number of teachers per school was below the present RTE norms, but many of the students remained in school, and it is reflected in the increase in literacy rate of the Scheduled Tribes in following decades. Over time, the absenteeism of teachers increased and small schools became ineffective.

Owing to paucity of trained teachers, learning achievement levels of tribal students remain low. A realistic projection should be made for the requirement of teachers for Tribal Sub-Plan (TSP) areas for the next ten years. Additional capacities should be created in existing teacher training institutions. Now teacher training institutions should be opened in the TSP areas to meet the full requirement of qualified and trained teachers. The curriculum for the training should be drawn up very carefully taking into account the socio-cultural milieu, tribal ethos, language etc. Further, it should also meet the present day needs like computer science, information and Communication Technology (ICT) in education, etc.

The dearth of teachers fulfilling the eligibility criteria set out under the RTE Act is an impediment to achieving the right to education in tribal areas. For addressing the current crisis of absence of teachers in tribal areas, special efforts need to be made to produce more teachers who have qualified the Teachers Ability Test.

Language Barriers for the Tribal Students

The chapter says that most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children at primary level of schooling. In the Vision 2020 document, there was an acknowledgement that Multi-Lingual Education (MLE) was necessary, in view of the low tribal literacy, high rates of dropouts and low learning achievements of the tribal children. The Model of Primers in the pilot projects involving material production and training, aimed at promoting multilingualism in the classrooms were launched in Odisha, Andhra Pradesh and Assam.

Involvement of Panchayats and Community in Education

The chapter points out that a study has documented the criticality of involvement of parents and community in the education of tribal girl children. The study has also documented the unique perception of tribal parents on modern education. For success of the educational interventions, involvement of community through the Panchayati Raj Institutions needs to be institutionalized. Information on various schemes, benefits and beneficiaries should

be provided to the Gram Sabhas and Gram Panchayats, which would create transparency. This will help create demand for scholarships and access to higher education, because of wide dissemination of information.

Education for Displaced and Dispersed Tribals

The chapter says that special arrangements for schooling facilities for the children of displaced tribal population residing in urban centres needs to be institutionalized through creation of special tribal agencies in the urban areas. They should be established under the Department of Tribal Affairs of the State Government, utilizing the TSP/SSA grants. Similarly, for the dispersed tribal population, special interventions, such as transport facilities for the children, should be provided to cater to their educational needs.

Education of Nomadic Tribes

The chapter says that nomadic tribes are schemes constantly mobile, depending on the climate, occupations and livelihood opportunities. For instance, the Bakkarwals and Gujjars of Jammu and Kashmir, move to higher altitude in summers and return to lower altitudes in winters. While residential schools have been set up for children in lower altitudes, the younger children (Class I to Class V) travel along with their parents and do not stay in these schools. Therefore, these children miss out on primary level schooling. Hence, this issue must be addressed through a special mass contact programme for creating awareness about the need for schooling and long term benefits.

Single Window Scholarship Portal

The chapter says that one of the critical elements for success of a Single Window Scholarship Portal is to provide information about different scholarship schemes in a single and relevant manner. The portal should enable students to request for scholarships directly.

Under **Recommendations**, the chapter outlines 27 recommendations in details.

Health

This chapter presents the status of health, health care and their selected determinants among the Scheduled Tribes in comparison to the Non-Scheduled Tribe population in India, using secondary data. It also makes recommendations to improve the situation, including suggesting a set of specific goals to be achieved.

This chapter covers the following aspects:

1. Population size, growth, sex ratio and few other characteristics
2. Mortality
3. Fertility
4. Disease patterns
5. Nutrition
6. Hypertension
7. Addiction - tobacco and alcohol
8. Determinants of health: sources of drinking water, sanitation facilities and fuel
9. Public health infrastructure, human resources and health care seeking behaviour
10. Maternal and child Health Care Programme Coverage
11. Conclusion
12. Recommendations
13. Goals to be achieved

The section titled **Population characteristics** presents the data on population size, growth, sex ratio and occupational structure of Scheduled Tribes population.

While talking about 'population growth' it says that according to Census 2011, the Scheduled Tribes constitute 8.6 percent of the total population in India. In the last decade, i.e. between 2001 and 2011 Censuses, the tribal population has grown annually by 2.1 percent, but some states have experienced negative growth (eg. Nagaland and Andaman & Nicobar Islands). Two states (Goa and Uttar Pradesh) have witnessed an exceptional growth, due to notification of additional caste/tribe groups under Scheduled Tribes.

It further says that the tribal population has shown favourable sex ratio as compared to other social groups in the country, with 990 females per 1000 males. The sex ratio of tribal population reflects nearly equal share of males and females as seen in Himachal Pradesh and west Bengal (each with 999/1000 males) or favourable to females as in Goa (1046 females).

As far as 'Occupational Structure' is concerned, this chapter points out that occupational structure of Scheduled Tribes and Non-Scheduled Tribes population presented in three broad categories. Primary sector includes agriculture and allied activities, secondary sector includes manufacturing, and the tertiary sector includes the service sector. Two-thirds of Scheduled Tribes are still working in primary sector, whereas this proportion is lower for Non-Scheduled Tribes population (43 percent). The involvement of Scheduled Tribes is low in tertiary sector (15 percent).

Under the section **Mortality**, it says that at the state level there is data on fertility and mortality, but there is no data generated for Scheduled Tribes, which is important for targeted approach of planning and programme implementation. This could be also one of the important factors for poor results from interventions in tribal areas and there is no way to monitor or evaluate the programme. Even the Sample Registration System (SRS) does not provide estimates on Scheduled Tribe population at national level, which should have been mandatory.

While talking about **Fertility** it says that Total Fertility Rate (TFR) among the Scheduled Tribes population was around 3.1 against estimate of 2.4 for the rest of the population. In view of socio-economic condition of the Scheduled Tribes population the TFR of 3.1 was not high.

It may be observed that **contraceptive use** (currently married women aged 15-49 using any contraceptive method) among Scheduled Tribes at the all-India level has been comparable to Non-Scheduled Tribes population (41 percent versus 49 percent). There are more than 15 states and India as a whole where Contraceptive Prevalence Rate (CPR) is more than 40 percent indicating the fact that large population is in contact with health system. The states where CPR is low among tribes are those whose overall performance is poor.

The chapter further talks about the diseases prevalent in tribal areas. It says that the Scheduled Tribes in India suffer predominantly from:

1. The diseases of underdevelopment (malnutrition, communicable diseases, maternal and child health problems),
2. Diseases, particularly common in scheduled Tribe population (Sickle cell disease, animal bites, accidents) and
3. Disease of modernity (hypertension, high consumption of alcohol and tobacco, stress).

The chapter says that the National Nutrition Monitoring Bureau (NNMB) survey of Scheduled Tribe population showed that the prevalence of hypertension among adult tribal population was 25 percent among men and 23 percent among women, which was comparable to that reported for rural adults. A study carried out among tribal population of aboriginal Nicobarees in 2010 reported very high (50 percent) prevalence of hypertension. Prevalence of hypertension increases with age and was higher among elderly population as observed in other studies. Awareness of hypertension was however very low (8.4 percent) among adult tribal population which is similar with other studies. It was also observed that the prevalence of hypertension was higher in the State of Kerala and Odisha, as observed by other studies in Kerala.

The chapter further refers to 'Consumption of Tobacco and Alcohol'. It says that consumption of tobacco or alcohol in any form has negative implications on health causing diseases such as cancer and tuberculosis. The prevalence of tobacco consumption was around 72 and 56 percent among Scheduled Tribes and Non-Scheduled Tribes respectively. Around 73 percent rural Scheduled Tribe men consumed tobacco as compared to 60 percent among urban counterparts. The prevalence of tobacco consumption among scheduled Tribe men was quite high in States like West Bengal, Mizoram and Odisha (more than 80 percent).

But consumption of alcohol is a part of social rituals in tribal communities. At the national level, it is noted that about half of Scheduled Tribe men (51 percent) consume some form of alcohol. The prevalence of alcohol consumption was found to be much lower among Non-Scheduled Tribe men (30 percent). Therefore, such a pattern of drinking alcohol among Scheduled Tribe men is bound to have negative effect on their health.

Determinants of Health: Drinking water, sanitation and fuel

The chapter points out that understanding of households' access to basic amenities, such as improved sources of drinking water, clean fuel, electricity and sanitation, is not only essential to assess the overall socio-economic status, but also fundamental to the health of the society. Available survey and census data indicate that very few tribal households have access to improved source of drinking water and sanitation.

It further says that another component of household and neighbourhood environment that affects health is drainage facility. Only about six percent of the Scheduled Tribe households have closed drainage facility, and about 17 percent of Schedule Tribe households have open drainage facility and above three-fourths (77 percent) of Schedule Tribe households do not have any drainage facility.

Overall, the situation of Scheduled Tribe households are better-off in West and South Indian states where there are better drainage facilities as these states are also more urbanized compared to other States.

Treatment Seeking Behavior

The chapter says that majority of Scheduled Tribe population depends on the public health system, as private providers do not have any interest to work in the tribal dominated areas. Therefore, improving the existing public health system becomes all the more important in that case. More than three-fourths of Scheduled Tribe population seeks treatment from Government funded health facilities, as compared to only 47 percent of Non-Scheduled Tribes. One-fifth of Scheduled Tribes seeks health care services from private sources. But the majority of Scheduled Tribes sought treatment from public sources. Therefore, public health system needs to be improved as its efficiency can directly affect health of tribes.

Maternal and Child Health Care Coverage

Under **Maternal Care**, the chapter says that the Full Antenatal Care and institutional delivery are considered to be key to reduce maternal mortality. It may be noted that the coverage among Scheduled Tribes is very poor. There is urgent need to increase the coverage of antenatal care. While talking about **Child Health Care** it says that for India, it is noted that the coverage of newborn care is about 34 percent for Scheduled Tribe children, whereas it is slightly above 50 percent among Non-Scheduled Tribe children. The condition in rural areas is much worse, but even in urban areas, newborn check-up is not universal. It may be observed that Scheduled Tribes have higher level of exclusive breast feeding as compared to Non-Scheduled Tribes.

In conclusion, many points have been mentioned, most of them have been covered under various heads. But there are important points which have been missed out.

The chapter points out that **Public Health Service (PHS)** to Scheduled Tribe population is one of the weakest links. It suffers from several handicaps. These are:

- i. It is often inappropriate for the needs in the Scheduled Areas, being a rubber stamp version of the national model primary designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and health care needs as well as the difficulties in delivering health care in a geographically scattered, culturally different population surrounded by forests and other natural forces. It is surprising that no serious thought was given to design a public health care plan for Scheduled Areas.
- ii. The other major difficulty in delivering public health care to tribal population is the (lack of health care human resource that is) willing, trained and equipped to work in Scheduled Areas. There is shortage, -- vacancy, absenteeism or half-heartedness of doctors, nurses, technicians and managers in public health care system in Scheduled Areas.
- iii. Though buildings are built and health care institutions created in the form of health sub-centres, Primary Health Centres (PHCs) and Community Health Centres (CHCs), they often remain dysfunctional resulting in poor delivery of health care. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
- iv. Factors such as unfriendly behaviour of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to lower utilization of the existing health care institutions in Scheduled Areas.
- v. Access to **hospital care** for all ailments remains very low in tribal areas.

Thus, the public health care system in Scheduled Areas is characterized by low output, low quality and low outcome delivery system often targeting wrong priorities. Restructuring and strengthening this should be one of the highest priorities for the Ministries of Health and family Welfare in States and at the Centre.

The chapter further says that a reason for the inappropriately designed and poorly managed health care in Scheduled areas is the near complete absence of participation of Scheduled Tribes people or their representatives in shaping policies, making plans or implementing services in the health sector. This is true from the village level to the national level. Even though the PESA gives Gram Sabhas the right and role of influencing social sector schemes, which include health, there are no mechanisms in place for such participation or oversight at the village level.

It also says that there is a common perception and complaint that funds for health care for tribal areas are underutilized, diverted to other areas, or utilized inefficiently, and worst, siphoned off by way of corruption.

Coverage with **medical insurance** including the Rashtriya Swasthya Bima Yojana (RSBY) remains extremely low in the Scheduled Areas. Thus the Scheduled Tribes populations are almost completely without financial protection against acute and catastrophic illness.

It also says that there is a near complete absence of basic data required to make situational diagnosis of health and health care in Scheduled Areas. The Sample Registration System, the National Family Health Survey, District Level Household Survey, Annual Health Survey, National Sample Survey Organization - none are designed to give reliable, robust, timely and segregated estimates of health outcomes in Scheduled Tribes populations.

Recommendations

The chapter mentions a total number of 17 recommendations having been made for the improvement of the health care programme. The 17th recommendation says that **The proposed Goals of the Tribal Health Plan should be:**

- ◆ To attain the Millennium Development Goals (2015) on health and nutrition for the Scheduled Tribe population in India by the year 2020
- ◆ To bring the health, sanitation and nutrition status of the Scheduled Tribe population to the same level as that of the Non-Scheduled Tribe population in the respective States by the year 2025
- ◆ To create human resources necessary for provision of healthcare in Scheduled Areas, as per the norms set by the High Level Expert Group on Universal Health Coverage (2011), by the year 2025
- ◆ To create and make functional the institutions for participatory governance (Tribal Health Assemblies and Councils) at all levels in the Scheduled Areas by the year 2016
- ◆ To annually generate Tribal Health Plans at all levels by the year 2017
- ◆ To annually allocate and spend 8.6 percent, in proportion to the Scheduled Tribes population, of the total Health Sector Plan and Non-plan budget, plus 10 percent of the TSP for the implementation of the Tribal Health Plan.

Land Alienation, Displacement and Enforced Migration

This chapter deals with land alienation, displacement and enforced migration. The chapter says that the development model of India is a carry forward from the pre-independence British period which was based on exploitation of natural resources and human capital for extraction and export of surplus for boosting industrial revolution in Britain. The only difference is that this model of primitive accumulation is being used within the country for development of capital goods sector and in due course this model remained relevant for growth of production in the private sector. In spite of all the promises in the Constitution for protection and special treatment for tribal people and other weaker groups, this colonial emphasis did not change in independent India. Due attention and importance was not given to social costs. Consequently a large number of people were displaced for economic development without regard to proper and holistic rehabilitation of displaced tribal communities and other weaker groups.

Constitutional Provisions

The chapter says that Schedule V of the Constitution lays down provisions for protection of land, and welfare and advancement of Scheduled Tribes. Legal protection is provided in Schedule V under which laws are to be framed by State Governments to 'prohibit or restrict the transfer of land by or among members of the Scheduled Tribes' in Scheduled Areas. State Governments did enact legislations, but in connivance with the state machinery, loopholes were exploited for defrauding tribal people of their land and illegal alienation of tribal land by non-tribal people continued as an ongoing process even after independence. This alienation of land has led to decrease in corpus of tribal land and is a contributory factor in 'forced' migration.

It is in this context that the Samatha judgment delivered by the Supreme Court in 1997 is an important landmark as it upholds and protects the land rights of Scheduled Tribes in Scheduled Areas. The Samatha judgment, delivered in the context of Andhra Pradesh Scheduled Area Land Transfer Regulation 1959, held that private mining industries are a non-tribal 'person'. Therefore, mining leases to private industries in tribal lands of Scheduled Areas are null and void and any transfer of land to a non-tribal was prohibited. The judgment went on to state that in Scheduled Areas, every Gram Sabha should prevent alienation of land, and minerals of these areas should be exploited by the tribal people themselves. But both the provisions of the Fifth Schedule and the Samatha Judgment could not protect the interests of tribal communities and their lands.

The Sixth Schedule of the Constitution lays down provisions as to the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. Under these provisions Autonomous Districts and Autonomous Regions have powers to make laws relating to land, for the management of any forest not being a reserved forest, the inheritance of property, use of water course and canal for purpose of agriculture, etc. But there is a proviso to 3 (a) of the Sixth Schedule which reads as follows:

"Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes in accordance with the law for the time being in force authorizing such acquisition".

On the basis of this proviso, land and Common Property Resources (CPR) have been acquired and tribal people have been displaced. Moreover, land is one of the reasons for conflicts in some parts of the Northeast and this has caused displacement of people.

The chapter while talking about **Right to Land**, says that right to property today is a Constitutional right (as distinct from a fundamental right). The fundamental right to property was taken away by amendments to the Constitution for zamindari abolition and bank nationalization. Way back in 1956, when the Fourth Amendment was being made to take compensation for land acquisition out of judicial review, the tribal leader, Shri. Jaipal Singh had emphasized that 'for the poor man's sake compensation must be justifiable, for the right to approach the courts is the most effective guarantee against executive tyranny'. Today we see how the right to property being a legal right and not a fundamental right has worked as a disadvantage against displaced belonging to weaker sections, particularly against the tribals.

Conceptual Framework of Land Acquisition Act, 1894: 'Eminent Domain' and 'Public purpose'

Under this topic, the chapter points out that the State has succeeded in acquiring vast tracts of land and diverting common property resources for construction of dams, infrastructure development, mining and industry, Special Economic Zone (SEZ), etc. Private land has been acquired under provisions of the Land Acquisition Act 1894, under the concept of 'eminent domain' based on the principle that the interest and claim of the whole community is always superior to an interest of the individual. This principle of 'eminent domain' has been upheld in judgment of the Supreme Court. Researchers while discussing changes in the law had brought out that 'eminent domain' had three essential ingredients - first, power of the State to take over private land; second, exercise this power for public good (public purpose); and third, the State had to compensate those whose lands were acquired for the public purpose. Ramanathan placed the concept of 'eminent domain' in the context of injustice in the model of development and displacement. Under this model, only landowners had right to be compensated and others such as landless, who had no legal title were excluded and this disregard for segment of the population was 'because of the limited mandate imposed on the State by the eminent domain doctrine'.

The chapter further says that with the enactment of 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013' comprehensive resettlement has been legally mandated and people affected by the Project have been included. But till this new law came into being, much harm had been caused by the misuse of the concept of 'eminent domain'.

Customary laws and the special provisions of Fifth and Sixth Schedules for protection of tribal land escape notice when judgments such as the Supreme Court order of 2004, regarding dispute over source of water in Nagaland, are passed stating 'So far as natural resources like land and water are concerned, dispute of ownership is not very relevant because undoubtedly the State is the sovereign dominant owner'. Further, in another matter, the January 2003 Supreme Court judgment declares:

'The power to acquire by State the land owned by its subjects hails from the right of eminent domain vested in the State, which is essentially an attribute of sovereign power of the State. So long as the public purpose subsists, the exercise of the power by the State to acquire land of its subjects without regard to the wishes of the owner or person interested in the land cannot be questioned'.

So long such judge-made law, that speaks of 'subject' and not 'citizen' emphasizes sovereign power and not the Constitutional notion that 'it is the people who are sovereign', the power of eminent domain will continue to displace and impoverish.

It also says that 'Public purpose' has not been clearly defined in the Land Acquisition Act, 1894. In fact, the amendment brought about in the colonial Land Acquisition Act, 1894 added land for residential purpose and developments carried out by local authorities and private companies, within the ambit of 'public purpose' which increased the extent of acquisition for private land and diversion of forest and other CPR (Common Property Resource).

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come many years too late, but is progressive in that it is the first to legally mandate comprehensive Resettlement and Rehabilitation of Project-Affected Persons; but the definition of 'public purpose' remains too wide and will not help in minimizing displacement. It also includes the idea of acquisition for private companies even from Scheduled Areas which expands the power of acquisition and alienation beyond what it was under the 1894 Act.

The chapter states that under the provisions of Indian Forest Act, 1927, new rights were acquired by the State under the principle of eminent domain and cultivation by people, who are descendants of original settlers of land, was categorized as illegitimate. Forests were categorized into three types: Reserved Forests, Protected Forests and Village Forests. The earlier customary rights of tribal people/communities in forests and common lands as included in a record of rights under State tenancy laws (such as that of Chotanagpur and Santhal Parganas regions in erstwhile Bihar and now Jharkhand) included rights such as rights to take forest-produce from forest land, graze cattle, to fish, to reclaim jungle land or wasteland or to convert land into cultivable land were restricted. Recording of Forest Rights of tribal people was discontinued. Forest rights of tribal people as Reserved Forests and Protected Forests were 'brought outside the scope of legal rights settlement'. The Wild Life Protection Act, 1972, the Forest Conservation Act, 1980, the Tree Prevention Act and the Forest Policy, 1988, also affected tribal people. Further, the Supreme Court order of 1996 in Godavarman case declared all lands recorded as forest in Government records and brought them under the purview of the Forest Conservation Act, 1980. Thus land earlier recorded as scrub forests, areas of worship, sacred groves and small areas of Sal forests, which were categorized as common land came under the control of the Forest Department. Due to these Forest laws, tribal people of central India who were Forest owners became encroachers and were arrested and imprisoned for minor offences.

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important Act, as it has begun the process of reorganizing their rights and will be the legal basis for computation of compensation in case of diversion of Forest for Development projects. But much harm had already been caused to tribals before enactment of this law.

Process of Involuntary Displacement

The chapter says that mineral and hydro-electric resource-rich states of India tend to the very places, which are home to vast majority of tribal people, Baxi has highlighted that people are not partners in the process of decision making regarding construction of dams, areas of submergence, environment impact, allocation of resources and allocation of benefits and adverse impacts of development. Displacement is a process in which marginalized sections, the majority being tribal people, are pushed out of their own habitat and dispossessed of their resources and indeed their universe around them. In post-independence period, their experience of displacement is as dehumanizing as before independence.

Social injustice of state action in reducing every right and interest of tribal people and other marginalized people in their lands to a claim for monetary compensation and the incorrect assumption that money can compensate for all losses, that all displaced are familiar with money market and would know how to handle compensation money. In the case of displaced tribal people, their unfamiliarity with money market led to devastating consequences. All this has led to 'abject and chronic impoverishment of the displaced, which should not be acceptable anywhere in the world, leave alone in democratic India.

Various studies relating to displacement by large projects in various parts of India have documented that Public Authorities and Private Corporations alike have either sought to or succeeded in acquiring land, forest and other common property resources from marginalized groups, by giving meager compensation. Further, the Displaced People (DPs) and Project Affected Persons (PAPs), who were better organized and articulated have been able to get the benefits of the Resettlement and Rehabilitation (R & R) much better as compared to those who were not organized by NGOs or civil society and who could not articulate their grievances, have ended up being pauperized.

The chapter while talking about **Forced migration for economic** survival says that tribal people suffer predominantly from the phenomenon of poverty-induced migration on account of rain-fed agriculture and absence of other avenues of employment. Fragmentation of land, loss of land due to acquisition and illegal land alienation by non-tribals also cause people to migrate. Deforestation and decreasing access to forests and drought are other contributory factors for tribal migration. Due to compulsion involved in migration in search of livelihood it would be more accurate to describe such migration as 'forced migration'.

Two Views

The chapter further says that in an increasingly commodified world, tribal regions have undergone change and today there are two views being expressed, one emphasizes that customary laws and State Tenancy laws should be strengthened to bear the onslaught of politico-economic policies, particularly that of industrial and mining policies; the second view is that of the elite of both tribal and non-tribal communities that feels that suitable amendments are required in State Tenancy laws to facilitate opening of markets and opportunities and to attract investment for development of the region.

Protest and agitation: It is the fear of impoverishment that has made people, particularly tribal communities to launch protests against land acquisition and displacement and is one of the reasons for Left Wing Terrorism in tribal regions of Central India. The response of the State ought to be to engage with tribal people to find out what they want.

The chapter further points out that the Centre has not maintained either district-wise or state-wise data of Community wise Displaced Persons/Project-affected persons or their rehabilitation and resettlement, which is symptomatic of the States' disregard for the adverse impact of displacement on various communities.

Under the heading **Views of National Human Rights Commission (NHRC)**, the chapter says that the NHRC has noted that, there has been large scale displacement in four States with large tribal population viz., Andhra Pradesh, Chhattisgarh, Jharkhand and Odisha based on research studies of NGOs. NHRC observed that where displacement and 'involuntary settlement' had received public attention due to efforts of NGOs or media, the State had responded, but in other cases displacement had resulted in loss of livelihood and shelter. NHRC has advocated a Rights based approach to Resettlement and Rehabilitation.

Extent of Private, Common and Forest Land Taken For Projects

The chapter also says that the report of the Committee on 'State Agrarian Relations and the Unfinished Task-Land Reforms' set up by the Ministry of Rural Development, Government of India indicates that approximately 4.3 million forest land had been diverted to non-forestry use during the period, from 1952 to 1976, forests was in the State list and the State Governments were responsible for the management of forests and after mandatory consultation with Government of India in respect of diversion of more than 10 hectares of land was introduced. From 1976 to 2008, 7.76 MH of forest land was diverted and 55 percent of this diversion took place after 2001.

The chapter further talks about **Displacement in Chhattisgarh due to Conflict**. It says that one of the reasons for displacing tribal people is conflict between the Maoist and Governments (Both Centre and State) and 'Salwa Judum', a State sponsored armed campaign that was launched to combat Maoists. Though it is argued that Salwa Judum was a spontaneous reaction of the civilians to the Maoists, there are evidence to show the hand of the State machinery in the whole process.

The State government should collect data of tribal people affected by conflict and take up measures to ensure that displaced people are resettled and rehabilitated in their villages and it is the responsibility of the state to provide security and promote peace between those who joined Salwa Judum and those who did not. The tribals who were displaced, due to the conflict, should not face alienation of their land.

Northeast States: The process of land alienation

Under this head, the chapter points out that traditionally, this region had a three-tier land ownership and control system: first, community land; second, individual land; and third, clan land. Every community had well-defined boundaries and traditional administration systems based on customary law. There were definite rules on who could cultivate what land and in which season and generally was controlled by the village council made up of men alone.

Changes have been conditioned both by external forces and internal dynamism. Land has become a marketable commodity, its exchange happens both within and outside the community. Internal transfer of land or mortgage has resulted in inequalities in its distribution and control. Such internal disparity is one form of land alienation within the community. Among several causes of land alienation within the community, the most important is the growing indebtedness, because of the need for money for medical care and education.

The external cause of land alienation is the high demand for land development projects. The second demand comes from the immigrants who encroach on tribal land. Development projects, especially major dams, being planned in the region, will put pressure on tribal land. A consequence of these processes is shortage of land and ethnic conflicts around it.

State action of acquisition of land, migration of outsiders and occupation of tribal lands are among the major processes, resulting in tribal people losing control over their land.

Displacement in the Northeast due to conflicts

The chapter says that the Northeast States have witnessed a series of armed conflict and violence, since India's independence in 1947, which have caused massive internal displacement of hundreds of thousands of people. The region has also received a steady flow of refugees from neighbouring East Pakistan/Bangladesh, Tibet and Myanmar. In fact, immigration has reduced the number of tribal communities, to a minority in some parts of the region. Though, the Sixth Schedule of the Constitution has become a major tool to provide protection to tribal

people in Northeastern States, the problem lies in the fact that many of these groups do not live in distinct areas and their demand for ethnic homeland often overlap with other groups. As a result, their demand for homeland leads to conflict and violence, which has, in turn caused internal displacement. In Manipur (1992), the conflict between Kukis and Nagas displaced 11,000 population including Kukis and Nagas from their particular places. Mizoram also experienced ethnic violence between Kukis/Paites in 1997 and this led to displacement of 62,880 persons. Bru tribals were displaced for years.

Immigration has come to be linked closely to land, because of the influx of the labourers from outside the region. Often these labourers are treated as 'outsiders' by the local community. The conflicts in this region are mostly to land alienation, due to influx of outsiders as people are fighting for natural resources in the same geographical space. During the visit of the Committee to Assam, NGOs representing tribal interests expressed their angst that if nothing was done to stop the influx of outsiders, they would be doomed and vanish as community.

The State Government should be proactive in protecting the interests of tribal people and in preventing alienation of their resources, in tribal land restoration, poverty alleviation and human resource development. The problem of unemployment has to be addressed.

The chapter further says that in spite of Constitutional safeguards and State Scheduled Area Regulations and Tenancy laws for the protection of tribal land, there is a continuous process of land alienation by non-tribals in connivance with the instruments of the State.

Impact of Migration on Tribal Communities

Under this head the chapter talks about **Causes for tribal migration**. It says some of the important causes are:

Drought: The chapter says that in contrast to seasonal migration, distress-induced migration is primarily the result of factors which include drought, land alienation, debts and high levels of food insecurity. This form of migration, which has increased in Kalahandi in the 1990s, is a final resort when other coping strategies fail. Such migration usually starts as early as September-October, when there is little possibility of harvesting a crop. Recruiting agents take the opportunity to recruit even cheaper labour than they can normally expect. Due to three successive droughts in 1996-2000, distress-induced migration had become 'seasonal' in character and an integral part of the regular coping strategies. A significant number of tribals, mainly from drought prone areas of Andhra Pradesh, Karnataka and Maharashtra, migrate to work in construction, tile factory, brick-kiln and crop-cutting in Maharashtra.

Costs and risks of migration: Migration has both positive and negative consequences for migrants. While it saves them from starvation at home, it exposes them to appalling living and working conditions at construction and other work sites. Additionally, migrants also do not have access to pro-poor schemes such as subsidized food, health care and schooling and must pay for everything.

On the positive side, migration has given tribal people an exposure to the outside world including new skills. Their remittances have helped the family in consumption, repayment of loans, fulfilling social obligations and to finance working capital requirements in agriculture as well as investment in better housing and purchase of consumer durable.

On the negative side, they suffer from family and social disorganization, harsh and unhygienic living conditions at work sites and physical and sexual violence in the case of female domestic workers.

Keeping in view that the tribal livelihoods are conditioned by the eco-system and they are dependent on agriculture, large scale migration due to poor economic conditions is a serious cause of concern.

Factors that accentuate loss faced by tribal people

Researchers have identified certain characteristics of tribal society that aggravate the impact of involuntary displacement, they are:

- ♦ Land for tribals is a source of livelihood and source of identity, ethnicity and cultural distinction. Thus, the loss of land plays havoc with the lives of the displaced tribal communities. Under R & R programmes, land is not replaced and there is no reconstitution of livelihoods. Loss of their cultural space and identity leads to cultural impoverishment, which is not addressed.
- ♦ Dependence on forests for food is in the form of shifting cultivation, fruits and flowers, small game, tubers; for medicines, fodder, material for house building; raw material for traditional art and crafts; income by selling firewood, leaf-plates, fruits etc. This loss, due to displacement is not compensated and affects food security.
- ♦ Lack of proper legal recognition of tribes over the forest land and hill tracts compounds the problem, when

it comes to the question of compensation.

- ♦ Lack of social relations outside the closely-knit kin-centred society. Displacement leads to disruption in family life and to loss of social network.
- ♦ The land rights structure in tribal societies is altogether different from what it is in other societies. The community rights they confer are utilitarian rights on nature but not the proprietary rights which attract the provisions of compensatory measures. Many a time, displaced tribal people were deprived of compensation and rehabilitation benefits as per Land Acquisition Act, 1894 because they did not possess any legal documents to prove their ownership right on the land they occupy and earn their livelihood from.

Research studies also show that the displaced tribals cope with their loss and changed conditions better than Dalits and other weaker sections as long as they are allowed to continue to live in their traditional habitat, as they have honed skills for the management of their habitat. It is when they are forced to migrate or are resettled outside of their territory that they are not able to adjust and operate in an alien territory and new society. The tribal way of life centres on their community. This extends from support in basic agrarian work to solidarity in times of trouble. Any displacement and scattered rehabilitation will destroy this collective welfare system that binds them together.

Loss of Status of Women after Displacement

The chapter further says that Parasuraman. S. 1996, in the 'Development projects, displacement and outcomes for displaced: two case studies. EPW, xxxi (24), (1529-1532), discusses the impact of displacement on the social and economic condition of women by different development projects, where it was found that loss of access to traditional sources of livelihood, land, forest, river, pasture, cattle, etc, marginalizes women in the labour force. It is when land and other sources are replaced that women at least partially regain their economic status. Under R & R policies, there is marked gender disparity as women members of the family such as adult unmarried daughters, widows, deserted divorcees have not been considered as a separate family. Women are traumatized due to loss of resources and break up of family and social networks and there is no strategy to address these adverse impacts.

Deterioration of Health

It also states that almost all the R & R colonies lack proper public health facilities, protected drinking water, marketing and transportation. Due to unhygienic conditions, health is a major problem of displaced tribal people, who are affected by various diseases such as malaria, typhoid, viral fevers, diarrhea, cholera, skin diseases and jaundice. In mining projects, resettlement sites are situated close to mining operations, which result in respiratory diseases. Ill-health causes them to spend most of their earnings towards allopathic medical treatment, due to non-availability of herbal medicines.

Disregard for Right to Livelihood: Adverse Integration

Diverse research studies have revealed lack of basic civic amenities in rehabilitation sites, absence of land and poor quality of land settled, and lack of employment avenues, results in stark decrease in standard of living after displacement and forces the displaced to migrate. Research studies show many have been forced to take up menial jobs and have become drifting agricultural and industrial migrant labourers. The work is commonly poorly paid and insecure and it affects their self-esteem and identity, but they are forced to take up such work for survival.

Development Projects have failed to create employment opportunities for Tribal DPs/PAPs, instead it had led to unemployment and forced migration.

Occupational Change

An analysis of decadal changes in access to cultivated land among Scheduled Tribes of four States with substantial tribal population, namely Chhattisgarh, Madhya Pradesh, Andhra Pradesh and Jharkhand, indicates increasing landlessness among tribal households. The percentage of marginal holdings below one hectare has shown a marked increase in all the four States. This indicates that medium-size land holdings are getting fragmented.

This calls for a comprehensive strategy encompassing the following: restoring tribal land, preventing land alienation, giving priority to Scheduled Tribes in settlement of ceiling surplus and wasteland, support to small and marginal tribal farmers for taking up half-value horticulture etc., and skill development to reap the benefits of growth in labour intensive manufacturing sector.

Decline in Percentage of Tribal Population: Loss of Identity

The chapter points out that development projects, which have displaced tribal people, have opened up tribal

areas, leading to influx of people from outside the tribal region seeking employment in industry, government service, trade and commerce etc. This has resulted in increasing urbanization of tribal areas and the large influx of immigrants from outside gathered the benefits from development, while on the other hand, the condition of tribal people became worse.

Tribal people find themselves placed in a subordinate position to outsiders in their own homeland and have developed a negative identity. Tribal society is egalitarian, but they now have to deal with a hierarchical and exploitative society. Tribal people faced with influx of immigrants, fear loss of identity, land, destruction of forests, jobs and losing political control.

Conclusion

The chapter concludes that under policy of liberalization, the effort is to create a climate favourable to investment and this will increase demand for more land than in the past. However, this policy lacks a social thrust. Projects that displace tribal communities by transferring their resources for the development of dominant sections of society can never be development in the true sense. Disproportionately large tracts of land in excess of actual needs have been acquired and CPR diverted for infrastructure projects, mines, dams, and industries, mainly in tribal regions. This is done for a pittance, without much thought to sharing the fruits of development with weaker sections, particularly tribal DPs/PAPs and the tribal community at large.

Recommendations

Following are some important recommendations made:

1. There should be a right-based approach to comprehensive rehabilitation for socio-economic reconstruction of victims of development.
2. It is essential that whole process of displacement should be democratic and rights of tribal communities to say 'no' to acquisition of their land and to access and manage the other CPRs, be recognized.
3. There is no mention of the need to protect tribal land and community resources in the 'The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,' 2013, which seeks to address concerns of those whose livelihoods are affected, simultaneously aims at facilitating land acquisition for industrialization and urbanization. It says that such policies will result in more displacement.
 - ♦ It is recommended that, as directed in the landmark Samatha judgment and the PESA Act, every Gram Sabha should have the power to prevent alienation of tribal land and further that minerals should be exploited by tribal people themselves. It should be the responsibility of the State to facilitate the formation of cooperatives of tribal people for this purpose.
 - ♦ The Act does not have a provision to the effect that exploitation of natural resources in Scheduled Areas must be with the consent of the Gram Sabha. This should be rectified.
4. There is plenty of unutilized tribal land available with Central/State/PSUs, and Central/State Governments which is not being used for the purpose for which it was acquired. Governments should legally mandate to return such land to the original landowners/successors or use the same for resettlement of displaced tribals.
5. There should be 'land for land', in acquisition of tribal lands. Compensatory land provided must be made cultivable with irrigation and agricultural inputs. They must be given a stake in the assets and economic activities being created on their acquired land and CPRs (for example, land in command area, irrigation of tribal land and the vicinity, jobs in industries, or shops/jobs in industrial projects/townships).
6. During a meeting between the HCL and representatives of displaced tribal people in Bastar, Chhattisgarh, anger was expressed at the non-fulfillment of promises to give jobs to the educated displaced persons. They were unhappy with the cash allowance being given in lieu of land. A sum of two thousand rupees per month per family as annuity for 20 years, as stipulated in the new Act, is too low. One of the ways to ensure that jobs are provided to displaced people and tribal families, is to create a state level/National-level Virtual Employment Exchange with complete data of age, sex, educational qualification, and skill-set of persons displaced in the past, present and in near future, for providing them employment and/or preparing them for employment /self-employment.
7. The new law has expanded the definition of 'displaced' to include project-affected persons; however, care has to be taken to ensure that all genuine cases are included and compensation is properly computed.
8. Land and water sources polluted by industrial and mining projects in tribal regions require attention and the onus for taking corrective measures should be on the Project Authorities.
9. Myriad grass-root movements against exploitation of tribal people and other weaker sections hold the key to greater socio-economic justice. It would be desirable if the State recognizes this and engages with democratic grass-root movements, instead of crushing these movements.

10. Under the 'Coal Bearing Areas (Acquisition and Development) Act, 1957, pattas/legal titles for houses allotted in resettlement sites are not issued to the displaced. As a result, the displaced lose their identity and are unable to access public facilities provided by the local administration, thereby facing difficulty in obtaining Caste/Tribe certificates. Further there is no provision for payment of compensation before taking possession of land. The provision for returning land to original landholders post-mining is rarely complied with. Clearly, there is a need to make amendments in the Act.
11. Development projects have opened up tribal areas leading to influx of people from outside the tribal region, seeking employment in various sectors. All this has resulted in increasing urbanization of tribal areas and immigrants, rather than tribals, have benefited from this. Hence, it is recommended that there should be no reduction in the areas declared to be Scheduled Areas as this will harm the interests of already deprived tribal communities by diminishing their space and their resources. Rather, the representation of tribal communities should be enhanced and strengthened in the politico-administrative institutions within Scheduled Areas.
12. Tribal people suffer predominantly from the phenomenon of poverty-induced migration, also known as forced migration. Micro studies indicate the increase in seasonal/circulatory migration of tribal workers, which may help them to avoid starvation, but it is not enough to improve their standard of living. Hence, it is recommended that:
 - ♦ Priority should be given to STs in settlements of ceiling surplus land and wastelands, investments to improve agriculture, support for high value horticulture, employment opportunities in rural areas, access to credit facilities and skill-development to rural youth for employment in labour-intensive manufacturing sector.
 - ♦ Complaints have been received that, due to seasonal migration of tribal people, they are not enumerated in the Census and therefore, Census data is not a true reflection of tribal population. This grievance requires to be redressed.
 - ♦ Apathy and incapacity of the State to implement the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, has led to exploitation of tribal migrant families. In particular, tribal women and children suffer greatly. There is a growing demand for enactment of a comprehensive Migrants Rights Legislation, which deserves serious consideration.

The chapter concludes by recommending that ultimately it is the duty of State Governments to ensure that all officials and lower-level functionaries do not connive in defrauding tribal people of disposal of their land. Regular monitoring at the State and Central levels of disposal of cases and proactive efforts for restoration of tribal land is required. It is the responsibility of the State to address the problem of contradictory judicial pronouncements that jeopardize implementation of protective land laws by removing ambiguities in all relevant laws.

Legal and Constitutional Issues

This chapter presents the issues and debates concerning the implementation of the Forest Rights Act 2006 (FRA), the Provision of Panchayats (Extension to Scheduled Areas) Act 1996 (PESA), some socio-economic issues relating to Particularly Vulnerable Tribal Groups (PVTGs), the use of criminal law in tribal areas, Salwa Judum, matters of migration and exploitative labour.

The chapter says that provisions of PESA have made fundamental changes in the matter of autonomy of tribal communities in the Fifth Schedule Areas. The Scheduled Tribe and Other Traditional forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) has for the first time recognized the relationship between forest dwelling communities and the forest.

The committee studied the implications of these laws on the relationship between tribals, land, forest other resources and the State. The conflict between model of development that seeks to exploit or divert mineral and forest resource, often through the agency of companies, and the autonomy under PESA and the recognition of rights in the FERA, was specially in focus.

Forest Rights Act

The chapter says that the enactment of the Forest Rights Act (FRA) has been a very important move in taking away the burden of illegality from the shoulders of tribals, and forest dwelling and dependent communities.

Implementation of the FRA

The chapter further says that implementation of the FRA has been weak. In 2010, the Ministry of Tribal Affairs (MoTA) and Ministry of Environment and Forests (MoEF) jointly constituted a committee to study the factors that aid or impede the implementation of law and recommend necessary policy changes (herein after '2010 Joint

Committee Report'). But it appears that many of their findings persist and recommendations remain relevant. These include:

- ♦ FRA's potential to achieve livelihood security and changes in forest governance, has hardly been achieved.
- ♦ There have been serious flaws in many States relating to the constitution of the Forest Rights Committee (ERC) at the grassroots level which has the crucial role of assisting the Gram Sabha in determining the claims from individuals.
- ♦ Several States have utilized GPS technology for plot delineation. It is recommended that a special set of guidelines need to be worked out for the proper use of spatial technology in the delineation, location, and status verification of claims filed, to ensure reliability, objectivity and transparency.
- ♦ The committee members found that the provision of the Act which stipulates that forest dwellers are not to be evicted or removed from forest land under their occupation till the process of recognition and verification of their rights is complete has been violated many times.
- ♦ The MoTA should issue a clarification that Other Traditional Forest Dwellers (OTFDs) as defined under the FRA are all those who can prove seventy five years of residence in the area (not necessarily on the plot being claimed), and dependence on the forest land as of December, 2005,. The MoTA should also clarify what kinds of evidences may be used for such proof and how these are to be made available to the villagers. MoTA should also clarify that no disqualifications on the basis of possession of additional revenue land or jobs, or location of residence on revenue land, etc. are permissible under the FRA.
- ♦ Claims are being rejected without assigning reasons, or based on wrong interpretation of the 'OTFD' definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey', or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them not its exercise facilitated.
- ♦ Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation, has not been implemented at all.

The chapter points out that the Committee finds that while on one hand, there is an absence of the procedure stipulated in the FRA, on the other, strict adherence to conditions not even required or permitted under the Act are used to disregard claims.

It further says that there is generally a gap between the land claimed and the actual extent of the titles issued to the claimant. Field studies reveal that although revenue officials generally demarcate all the land as per the application of the claimants, titles issued to them are for lesser areas than their actual occupation and claims. In fact, implementation has been low and where claims have been filed there has been a high rate of rejection of claims. Besides, most state governments have focused their attention on individual claims and not community right claims.

Community Forest Rights

The chapter says that the FRA recognizes various community forest rights which could potentially operate as a powerful, and meaningful, way for forest dwelling communities to protect their way of life. Till as late as 2012, however, these rights were almost entirely ignored.

Despite very poor implementation of community rights, the Joint Committee Report, 2010 was quick to caution that "the current status of community claims is not indicative of the potential of such claims".

In many cases, the Forest Department is actively impeding the process of CFR rights and recognition.

The general misunderstanding is that FRA is a "scheme for tribals" to the exclusion of OTFDs and therefore, CFR titles will be granted to "Scheduled Tribes only" villages. Right from the first phase of implementation, it is noted that district administrations refuses to accept oral evidence from elders although it is allowed as per the Act. Authorities are also incorrectly requiring proof of "occupation" (and not proof of "residence" as stipulated under the FRA and as clarified by the guidelines issued by MoTA) of forest land for three generations prior to 13th December, 2005.

Exercise of rights over the Minor Forest Produce (MFP), a community right under the FRA, remains a big challenge across the states. There is no institutional mechanism developed so far to support the rights holders in the process of exercising the MFP rights particularly in the disposal and marketing of the produce.

Joint Forest Management

The chapter says that in areas where Joint Forest Management (JFM) was in practice, there were complaints

that the FRA was sought to be kept out. Further, attempts were to convert the village forest committees set up into forest rights committees under the FRA, which is not in consonance with the law.

Particularly Vulnerable Tribal Groups: Food Security and Habitat Rights

The chapter says that the Right to Food Commissioner's Report identifies Particularly Vulnerable Tribal Groups (PVTGs) as most susceptible to malnutrition. The report acknowledges that these communities derive their nutrition from the forest and habitat they live in. Tribals are denied access to the forest and its produce, often due to persistent lobbying by conservationists and environmentalists. PVTGs inhabit areas that are inaccessible by road, and therefore cannot travel easily to Anganwadi centres, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi Centre. As far as the Midday Meal Schemes are concerned, tribals are wary of their children attending mainstream schools, either due to fear of stigmatization in school or physical distance.

Years of deprivation has caused malnutrition rates to escalate. Control over forest resources is, therefore, essential for the survival of PVTGs. In recognition of this vulnerability, the FRA has a special provision for PVTGs for "rights including community tenures of habitat and habitation" under Section 3(1) (e). Habitat is defined as including the 'area comprising the customary habitat and such other habitats in Reserved Forests and Protected Forests'.

The chapter points out that for PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. There is no disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under FRA. The Joint Committee Report, 2010, found that "Orissa is the only state that has taken some proactive steps on PVTGs and issued a number of circulars focusing their rights, and entrusted the responsibility on the micro-project officers and project administrators of ITDAs, but neither 'habitat right' nor CFRs in any case has been finalized."

The chapter further also points out that some problems that arise for tribal communities in claiming habitat rights include: lack of clarity over definition and interpretation of what is entailed in the habitat rights; multiple interpretations of habitat, especially if the user rights of other, non-PVTG groups sharing the same territory are involved; or if the traditional habitat boundaries of PVTGs overlap with wildlife habitats; and a lack of awareness among such communities about the terms in which to articulate such claims.

There are attempts underway to document and give value to resources which are found in PVTG areas. For instance, the Jana Swasthya Sahyog in Chhattisgarh has identified the various food, fruits and flora in the region and explained nutritional value of the produce.

The depletion of these resources, or denial of access to the resources, threatens a descent from poverty to vulnerability. This is a tangible loss and must be accounted for, and averted, when any programme or project is proposed.

Women

While talking about gender, the chapter points out that the committee has noted that women's participation in processes under the FRA remains low. Women are dependent on forest and forestland for their livelihood and are active participants in the various forest activities. Forest is the only resource from which women are getting income. The absence of their voice at various levels (from Gram Sabha to forest committees) means that critical issues are often overlooked.

Empowering provisions for women under FRA include:

- ◆ Section 2 (g) of the Act provides for the full and unrestricted participation of women in Gram Sabha
- ◆ Rule 4 (2) provides that "the quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women
- ◆ Rule 5 (C) requires that at least one of the three PRI members nominated to the SDLC shall be a women
- ◆ Similarly, rule 7 (C) requires that out of the three members of the district panchayat to be nominated to the DLC by the district panchayat, at least one shall be a woman
- ◆ Section 4 (4): A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person.

It further says that there has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it. A large majority (80 percent) are not aware of

the amount of land claimed by their husbands and how much land is recognized.

The field report reveals that although the population of women in villages is often more than men, this is not reflected in their representation in the Gram Sabha.

It further points out that the law mandates that certificates for forest claims must be issued jointly in the name of both husband and wife; however studies show that this provision has been largely ignored.

Forest Rights Act in Protected Areas

The chapter says that there are about 690 Protected Areas, i.e., National Parks and Sanctuaries in India. Approximately three million people in India, most of whom are tribals, live inside PSs and are depended on them for forest resources. There have been situations where tribals and OTFDs have continued to be viewed as communities who should be evicted from the forest so as to pursue other conservation goals. Most states exclude PAs from the application of the FRA due to a lack of understanding and awareness of the law, and that the tribal population is a menace to wildlife in those areas. Moreover, forced eviction, relocation and harassment by forest officials is commonplace. Reports suggest that between 100,000 and 300,000 people have been evicted from protected areas at different times. This is despite the law stating that eviction, before verification and settlement of claims under the FRA is complete, is unlawful. This has caused a decline in their economic status, as well as erosion of their customary forest practices.

Panchayats (Extension to the Scheduled Areas) Act, 1996, (PESA)

Under this head, the chapter explains that Scheduled Areas, because of their richness in natural resources are susceptible to pressure from "unscrupulous elements indulging in illegal mining & forest felling" leading to land alienation, exploitation and "dislocation of the communities and loss of major sources of livelihood". Therefore, it was important that customs, rights and livelihoods of those living in Scheduled Areas were protected. Accordingly, the Panchayats (Extension to the Schedules Areas) Act, 1996, (PESA) was enacted, extending Part IX of the Constitution to the Schedule V Areas. In enabling the Panchayats to 'function as institutions of self-government', a state government is mandated to ensure that the Panchayats at various levels and the Gram Sabha are endowed inter alia with:

- ◆ Power to prevent alienation of land in the Scheduled Areas and take appropriate action
- ◆ To restore any unlawfully alienated land of a Scheduled Tribe
- ◆ Ownership of minor forest produce
- ◆ Power to enforce prohibition, or to regulate or restrict the sale and consumption of any intoxicant
- ◆ Power to exercise control over money lending to the Scheduled Tribes
- ◆ Power to exercise control over institutions and functionaries in all social sectors
- ◆ Power to control local plans, and resources for such plans including tribal sub-plans
- ◆ Power of prior recommendation in granting prospecting license or mining leases for minor minerals as well as for grant of concessions for the exploitation of minor minerals by auction
- ◆ Right to be consulted on matters of land acquisition
- ◆ Power to issue utilization certificates for government works undertaken in their village.

Access to and ownership of Minor Forest Produce is not PESA compliant under various state rules

The chapter says that the PESA confers the ownership of minor forest produce on the Gram Sabha. However, a Planning Commission report acknowledges that "in absence of a comprehensive national/central policy/approach, contradictory legal provisions still prevail while differential state regimes create some of the biggest limitations which constrain a healthy growth of the Non Timber Forest Produce (NTFP) sector. Bamboo, for instance, is defined as a 'minor forest produce' in the Forest Rights Act, 2006 whereas the Indian Forest Act, 1927 treats it at par with timber. PESA, 1996 gives ownership rights to local communities over MFPs whereas the regime created under Wildlife Protection Act does not. The report goes on to say that the then Minister for Environment and Forests wrote to state Chief Ministers to recognize bamboo as a minor forest produce and transfer ownership of the same to local communities, but the state Forest Departments were unwilling to accept that. Though monopoly rights of states are legally questionable, they continue with this practice.

Amendment to the PESA

The chapter says that the proposed PESA Amendment seeks to change the existing law by providing for "prior informed consent" of the Gram Sabha to be mandatory before any land acquisition, which will bring it in tune with international developments where free prior informed consent has evolved as a precondition to the location of projects, and its consequences. The proposed amendment also mandates "prior informed consent" of the

Gram Sabha before granting of prospecting license or mining lease for minor minerals in the Scheduled Areas and before

Linear Projects

While explaining the Linear Projects, the chapter mentions that on 5 February 2013, a letter was issued from the MoEF exempting linear projects from the requirements of obtaining consent from Gram Sabha under the Forest Rights Act: 'This Ministry has received representations from various ministers to exempt projects... where linear diversion of forest land in several villages are involved, from the requirement of obtaining consent of Gram Sabha, as stipulated in this ministry's said letter dated 3-8-2009.'

"The matter has also been examined by an inter-ministerial committee. The Committee after examining the matter had inter alia recommended that a resolution of the Gram Sabha of the area based on full and prior information of the project and a public hearing, endorsing that the project is in the interest of the people living on forest land, use of which is proposed to be diverted for non-forest purposes may not be required for the projects like construction of roads, canals, laying of pipelines/optical fibres and transmission lines etc, where linear diversion of use of forest land in several villages are involved, unless recognized rights of Primitive Tribal Groups (PTG) and Pre-Agricultural Communities (PAC) are being affected."

The letter says that the Minister for Tribal affairs had agreed with this recommendation. There were further circulars to this effect on 3rd August, 2009 and 15th January, 2014. On 7th March, 2014, the MoTA had to issue a notice to all Chief Secretaries clarifying 'the correct position in law'. It said:

- ♦ The FRA "does not provide any exemption to any category of projects"
- ♦ "Compliance with the provisions of FRA in no way counters the provision of basic developmental initiatives, particularly in less developed Scheduled Areas. In fact, Section 3 (2) of the Act expedites projects meant for forest dwellers".
- ♦ "The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 also requires consent of the Gram Sabha for acquisition of land in Scheduled Areas for development".
- ♦ The Supreme Court, in its 2013 decision where the tribal hamlets in Niyamgiri were asked to be consulted in their Gram Sabha, has reiterated that the proper process has to be followed for the determination of community forest resource rights and that the decision has to be taken by the Gram Sabha.

"In view of the above, compliance with FRA is a mandatory requirement before forest land can be delivered. Failure to do so would be a violation of law". This was issued with the approval of the MoTA and Panchayati Raj. Any land that may have been taken over by following the letters/notices of the MoEF dated 5th February, 2013, 5th July, 2013 and 15th January, 2014 must be restored to the community.

Land Acquisition Law of 2013, Forest Rights Act, 2006 and PESA, 1996

The chapter points out that the Land Acquisition Law, 2013 that replaced the Land Acquisition Act, 1894 brings the Scheduled Tribes and those covered by the Forest Rights Act within this law, and considers the possibility of involuntary displacement from land and habitat. Unlike the 1894 Act, this law expressly provides for acquisition for private companies and for projects to be executed through public-private partnership. There is an implicit erosion of the principles relating to land alienation in the Fifth Schedule areas which does not allow transfer of land from a tribal to a non-tribal. Just by way of clarification, private companies are non-tribals.

It further says that the Land Acquisition Act, 2013 has been enacted at a time when the potential of the Forest Rights Act to bring forest dwellers out of the disabilities induced by illegality is still being worked out. There are multiple hurdles that communities have been experiencing in having their rights to the forest recognized. While there has been some movement on recognition of individual rights, community rights and the rights of access are still in the initial stages of being understood and implemented. The 2013 law, however, reveals an impatience to get forest and Fifth Schedule land into the process of forcible acquisition. Although the 2013 law acknowledges that there are special provisions in relation to land in Scheduled Areas, and that the Forest Rights Act is a piece of legislation that is about recognizing rights and not about opening up the land for transactions, yet it speaks of involuntary displacement for a project.

The Constitution does not treat eminent domain as flat doctrine. It does not apply equally or in an identical manner in all territory within India. Scheduled Areas, forests, and the rights of tribal communities to land have been specifically treated distinctly from other private holdings of land. The Land Acquisition Law, 2013, in attempting to make more land available for development projects, is still poised to defy the constitutional and legal principles in relation to landholding, land ownership, land use and land alienation in tribal areas.

Memoranda of Understandings (MoUs)

The chapter says that in recent years, state governments and corporations have been entering into MoUs which impose a responsibility on the state to facilitate various aspects of their projects. The proliferation of such MOUs is noticeable. For instance, Chhattisgarh has reportedly entered into 121 MoUs for industries relating to coal, sponge iron, railways, and electricity. Jharkhand has also signed 74 MoUs for Mega Investment, indicating a total investment of Rs 2, 93, 360.33 crores in Project Cost. As on 2011, there are another 25 MoUs Jharkhand has signed with a total investment cost of Rs 78,871.83 Cr and reportedly providing employment to 1,20,320 persons. Many of these MoUs pertain to Fifth Schedule Areas.

These MoUs, it has been pointed out, change the relationship between the state and the corporation, and the state and project affected people. For instance, in Fifth Schedule Areas, it is the legal and constitutional obligation of the state to ensure that tribal land alienation does not occur, causing detriment to the interests of the tribals. The Samatha Judgment of the Supreme Court was a reflection of this understanding.

However, in 2005, when the Government of Orissa entered into MoU with POSCO, which is now a contentious project and where local people including tribals have been protesting land acquisition for the project, it included a clause that read:

- "(i) The Government of Orissa agrees to facilitate and use its best efforts to enable the company to obtain a "No Objection Certificate" (NOC) through the State Pollution Control Board in the minimum possible time for the development and operation of the Project.*
- (ii) The Company will conduct a rapid Environment Impact Assessment ("EIA") and prepare a detailed EIA Report and an Environment Management Plan ("EMP") for the Project. The Government of Orissa agrees to provide any assistance requested by the Company during the time the EIA is conducted and the EMP is prepared.*
- (iii) The Government of Orissa agrees to use its best efforts to procure the grant of all environmental approvals and forest clearances from the Central Government within the minimum possible time for the Project."*

The chapter says that MoUs have been criticized for prioritizing the interests of the corporations over those of the tribals and local populations. The state is expected to protect the tribal from losing land through land alienation, preserve the environment and protect the forest. Even if the state's prerogative is 'rapid industrialization', the responsibilities it sets for itself through the MoUs would dilute the law, and this is a disturbing trend that has spread across states.

It is said that the altered understanding of the role that government officials are claiming for themselves, namely getting projects started, is setting at naught, the responsibilities that they owe the tribals, and subverts the law.

Further, the development paradigm adopted by states has raised questions from many quarters, and is manifest as protest, resistance, dharnas and court challenges. It is frequently seen that protesters are subjected to the heavy hand of the law, and find themselves arrested, charged with variety of offences including even stringent provisions of the law such as sedition. There have been many occurrences of crackdown on displaced people, people from whom land has been taken for the project and on those protesting the location of a project. These have been documented in a variety of ways including video recordings, fact-finding reports, and in national dailies and magazines. There is little to indicate that the concerns of the local people which is expressed in the protests and movements of resistance is being addressed. This has had the effect of criminalizing protest.

It appears that some MoUs have begun to take shape between the state and civil society organizations. Its purpose is significantly different from that seen in MoUs of the state with corporations. Where the latter sought to ensure that the law would not be a hurdle to the progress of their project, the former was to work for the implementation of the law. The draft MoU that the committee saw was a memorandum to ensure that the Forests Rights Act is properly implemented.

Salwa Judum

While explaining this topic the chapter says that Salwa Judum, translated variously as peace march, people's resistance movement or as purification o hunt, was a government initiative in Bastar region. It was set up in 2005, to counter the naxalites presence in the area. Its mainstay was the SPOs (Special Police Officers) who were local tribal youth, some as young as 16 years, who were recruited, paid a stipend, armed and handed the

task of fighting the naxalites. What resulted was a civil strife which displaced whole villages, rapes, excesses of power, murders and the burning of houses.

In a writ petition challenging the constitutionality of the salwa judum and the situation of human rights violations, it was perpetrated in Chhattisgarh in July, 2011, the court condemned the state of Chhattisgarh for allowing such atrocities to continue and raised concerns about the manner of recruitment, the qualifications and training of the SPOs, arming them and giving them the task of becoming part of the security establishment with no preparedness to perform the task. The important developments arose subsequent to the Salwa Judum judgment. One, a clarification was issued by the Supreme Court stating that: "Under the July 5 judgment, we have asked the Union of India to cease and desist from using any funds directly or indirectly for SPOs.

Secondly, two months after July 5, 2011, judgment, the Chhattisgarh Assembly passed the Chhattisgarh Auxiliary Armed Force Act, 2011 (the Act) authorizing an 'auxiliary armed force to assist security forces in prevention and control and combating maoist/naxal violence.' The object of the Act is to "establish a trained armed force of persons having knowledge of local area and topography and local language/dialect" since inaccessible tribal areas in Chhattisgarh are affected by Naxal violence. Section 11 of the Act regularizes existing SPOs and inducts them into the auxiliary armed force.

Though the court has expressed shock, dismay and anger over Chhattisgarh Government's abuse of power, the act explicitly defies the court order, continuing its earlier violent policies to combat extremism, the very same that the court declared constitutionally impermissible and abhorrent. Unless there is a conscious commitment by the state to move away from this skewed notion of protecting its citizenry, the vicious circle of violence and counter violence will continue.

Criminal Law

The chapter says that an extremely disturbing feature that witnessed in Schedule Areas, where projects are being located, is the filling of cases against local people and their supporters. Land acquisition, displacement and the commencement of project work without settling issues that arise in the context of the project have given rise to various forms of protest and resistance. Local people complained that when they raised their voices against a project proposal that was brought to them, they invariably found themselves charged with criminal cases. Many of them spoke of attending Court in relation to cases filed against them. They were not always aware of what they had done which had provoked the administration to bring the law down on them.

It appears to have commonplace to file cases against those participating in these protests. The large numbers of FIRs include charges under Sections 147, 148, 149, 120B, 307, 506 of the Indian Penal Code and Sections 25 and 26 of the Arms Act and under Goonda Act in states, as well as the Chhattisgarh Special Public Security Act. Often, arrests occur and, it is not unusual to see further charges being added on in relation to persons already charged. Persons charged with these offences are brought within the entrails of the criminal justice system. In Chhattisgarh, for instance, the committee found that a large number of tribals have been languishing in jails for long years without their trial concluding. The occurrence of encounter killings where state forces have shot and killed villagers has also raised the pitch of the conflict and left a gulf between the state and local communities.

In Orissa there are cases questioning the killing of persons in what were termed encounters. Encounter killings do not have the sanction of the law beyond the exercise of the right of self-defense. 'Encounters' as a way of dealing with the naxal issue needs to be done away with, and lawful ways found to deal with it. Where encounters do occur, an FIR must be registered and the incident investigated to make sure that it was a legitimate use of force. This is the minimum that needs to be done in these circumstances. Leadership emerging from tribal communities and public defenders working for the tribal interest also have cases registered against them.

De-Notified Tribes (DNT)

The chapter points out that the Criminal Tribes Act, 1862, stigmatized and illegalized whole communities. After the Constitution was promulgated in 1952, and the report of the Criminal Tribes Enquiry Committee submitted in 1952, the Criminal Tribes Act was repealed. This should have been the end of the stigmatization and illegalization of the communities. Yet, and as we have been reminded through the years, the tag of criminality attached to DNTs and to the nomadic way of life of nomadic tribes persists to the present day. The explanation lies, in good measure, in the Criminal Tribes Act being replaced in many states by the

Habitual Offenders Act. Over the years, the enactment of laws that treat the activities of DNTs as criminal, even if there is no attribute of a crime in such activities, has oppressed these communities. For instance, anti-beggary laws in many states impose criminality on acts such as performing, acrobatics and juggling on the streets. For example, the Bombay Prevention of Begging Act, 1959 has, in its definition of beggary, "singing, dancing, fortune-telling, performing or offering any article for sale.

The chapter further says that it is difficult for these communities to find decent livelihood. Discrimination in educational institutions and the inflexibility of such institutions which do not account for the nomadic nature of some communities has left them outside the aspirations that others in society have. Communities also report that among them there are specific communities, which have many single women and where prostitution is common practice, not as a matter of choice but as a means of survival of the community.

One of the very disturbing features that was reported to us, was the routine manner with which these communities experience police brutality and violence. The label of criminality has done little to help them combat these practices, whose illegality has not been recognized, despite its frequency.

There are various sources that helped the committee understand the conditions in which these communities (Nomadic tribes, Semi-nomadic tribes and De-notified tribes) survive. There were also four regional consultations that the communities organized to assist the committee in formulating its report.

Delivery of Public Goods and Services

The chapter says that the Planning process in India has, since its inception, emphasized inclusion of marginalized communities, including the Scheduled Tribes. Initially, it focused on directing sufficient resources for the development of Scheduled Tribes, along with establishing institutions and mechanisms for delivery of goods and services. These processes were set in motion, under various schemes and programmes. The strategy changed from Plan to Plan and evolved over time. The first of these institutions created were the special Multipurpose Tribal Development Projects (MTDPs), established towards the end of the First Plan and continued during the Second Plan. However, these could not fully serve the interests of the tribal people, as there were several schemes that were broad in nature. A different strategy was adopted during the Third Plan, wherein all the Community Development Blocks with tribal population of 66 per cent and above were converted into Tribal Development Blocks (TDBs). This strategy too, had its limitations, as it was unable to address the interests of over 60 per cent tribal population living outside the TDBs.

During the Fifth Five Year Plan, the strategy of the Tribal Sub-Plan (TSP) was adopted, and saw the creation of more robust institutions like ITDP (Integrated Tribal Development Programme) and ITDA (Integrated Tribal Development Areas). Simultaneously, the exercise of identification of tribal majority blocks in the country was undertaken in the Fifth Plan period (1974-1979) and completed in the Sixth Plan period (1980-1985). The basic objective of the TSP is to allocate government resources equitably between the overall population and tribal population.

When first formulated, the important constituents of the Tribal Sub-Plan were:

- ♦ Identification of development blocks having, generally, a majority of ST population and approximately constituting them into ITDPs;
- ♦ Preparation of a project report for each ITDP based on the natural resource endowment therein, available financial resources and the avocations, skills and aptitudes of the people of the ITDP;
- ♦ Ensuring availability of at least population-proportionate, pooled financial resources earmarked from the State Plan funds, funds of Central and Centrally sponsored programmes, special Central assistance, institutional finances and any other resource, and
- ♦ Placement of suitable techno-administrative structure in the ITDP for execution of programmes, schemes, etc.

Partly modifying the guidelines, in 2010, the Planning Commission laid down differentiated Ministry/Department-wise earmarking of Plan funds under TSP. It also improved follow up with States and Central Ministries.

The chapter further indicates that the TSP strategy specially implemented for STs has not yielded desired results. The decline in the budget allocations for TSP in proportion to the ST population is a cause for serious concern. This anomaly has to be seriously addressed. The State Governments have also not earmarked adequate funds for Scheduled Tribes.

As per guidelines issued by the Planning Commission, the Tribal Sub-Plan funds are to be non-divertible and

non-lapsable. But, most of the funds meant for TSP have been diverted to other sectors and purposes, and some of them have also been lapsed due to their improper utilization or failure of administrative machinery. Such inadequate allocation, underutilization, diversion, and lapse of funds are evident in the case of Andhra Pradesh.

Even if fund allocation is disproportionate to the ST population and its non-utilization or low-utilization, whatever allocation is made for TSP, the benefit has not been proportionate. No compromise should be made with regard to TSP fund allocation and its proper expenditure for the benefit of the STs.

Even increase in funds has not generally translated into better socio-economic outcomes for tribal populations for a variety of reasons. Foremost is the fact that the majority of tribal population is less vocal, has been traditionally disadvantaged and live in remote places, In addition to the problems of physical access, the absence of functionaries of line departments and language of communication are serious barriers. As a result, this money allocated for the tribal population, lapses and is, in effect, transferred to non-tribal people, in the subsequent financial year. Further the per-capita cost of infrastructure for tribal areas is higher than the rest of the population, because tribal population is dispersed, often in remote hamlets and in hilly, inaccessible areas, The problem has been exacerbated by (a) continuous presence of extremist groups, which prevent the implementation of basic programmes like health, education, livelihood, in certain instances and (b) large scale displacement on account of irrigation, mining and other projects, as well as declaration of their habitats as reserve forests and wild life sanctuaries. Another reason for increased outlays under Plan schemes not translating into better outcomes for Scheduled Tribe population is that the

Clearly, rapid socio-economic development of STs and bridging of gaps vis-à-vis the general population, cannot be achieved unless robust institutions are in place at field level, for delivery of public goods and services that are created under the various plan schemes; institutions that can ensure effective and efficient use of available sources and effective outreach to the tribal people.

Twelfth Five Year Plan and Beyond

The chapter mentions that the Twelfth Five Year Plan, with its focus on faster, sustainable and more inclusive growth, recognizes the importance of administrative strengthening and improved governance. In addition, it emphasizes the following areas for addressing socio-economic conditions of Schedule Tribes:

- ♦ Education and health
- ♦ Livelihood support and employment, imparting of skills and creation of employment opportunities near ST habitations
- ♦ Improved infrastructure
- ♦ Issues of land acquisition
- ♦ Resettlement and rehabilitation of displaced tribal populations
- ♦ Connectivity in Left Wing Extremism and tribal areas
- ♦ Implementation of provisions of PESA and FRA.

Strengthening of Institutions: ITDAs/ITDPs

The chapter says that the ITDPs/ITDAs are expected to undertake planning and implementation of various programmes and projects of the state Governments as well as of the Government of India in their respective areas. These institutions were established with the primary objective of ensuring an integrated implementation of development programmes for tribals in the Sub-Plan areas. They are responsible for infrastructural development, income-generation activities, health and education related service delivery as well as implementation of Forest Rights Act within their areas. These institutions were established with primary objective of ensuring an integrated implementation of development programmes for tribals in the sub-plan areas.

The Forest Rights Act has also cast additional responsibility on the staff of the Tribal Welfare Department. The main responsibility is to enable Gram Sabha to take informed decisions. These must be pro-active, when the rights of the forest dwellers are adversely affected. While MGNREGA supports land and watershed development increased productivity of land settled under FRA, absence of supporting staff for implementing the scheme has resulted in low absorption of funds available for supervision of these works. This requires additional technical staff for ITDA/micro projects etc.

Creation of Institutions in Urban areas

The chapter says that a large portion of Scheduled Tribes are migrating to urban areas for reasons mentioned

earlier. During the census decade, 2001-2011, the number of STs in urban areas increased from 66.19 lakhs to 104.62 lakhs, which is an increase of 5.8 percent per annum. Many of these people have become wage labourers in urban areas. These STs who migrate from rural areas to urban areas suffer loss of identity, community solidarity, land, entitlements such as ration cards, and common resources. Many people who live in urban areas have no records to prove they belong to Scheduled Tribes making it difficult to get certificates. It is imperative that States work towards the creation of micro projects in urban areas which have substantial ST population to assist them.

Knowledge and capacity-building institutions -- Tribal Research Institutions (TRIs)

The chapter points out that the Government of India has always recognized the need for continued research on cultural, anthropological, socio-economic and related issues concerning tribals. The outcome of this research and documentation work is expected to feed into the policy and programmes for tribal development.

Prioritizing Grants under Special Area Programmes

The chapter says that the Ministry of Tribal Affairs is seriously considering this matter and has issued new 'Operational Guidelines for formulation, implementation and monitoring of Tribal Sub-Plan and Articles 275 (1) Grants' in 2013-2014, which prioritize expenditure for strengthening of ITDAs and TRIs. The order of priority is as follows:

- ◆ Strengthening of ITDAs/dedicated micro projects/create new ITDAs
- ◆ Supporting additional manpower in livelihood and engineering wings within ITDAs
- ◆ Strengthening Tribal Research Institutes
- ◆ Support to Residential Schools and Government hospitals in tribal areas
- ◆ Support to linkage with livelihood projects
- ◆ Any other project relating to wellbeing of tribals.

The guidelines mention that Stand-alone projects without forward and backward linkages will not be supported.

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