



## State, stigma, and survival: A socio-political study of nomadic tribes in India

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### Abstract

Tribes are probably the most exploited groups in our history, though they are not a part of the highly absurd and arbitrary stratified caste system; still, they are considered as a lower caste and living on the margins. Despite the fact that they were denotified after the enactment of the constitution and subsequently the newly formed government in the newly born India, which had its commitment towards its Tryst with Destiny, repealed in 1952 the colonial law Criminal Tribes Act of 1871, the misery of these tribes continued and even endured after seven decades of enactment of the constitution and the seventy-fifth year of Independence. They are still considered habitual offenders and comprise the highest number of undertrials in our prisons due to this perpetual colonial mindset of institutions of criminal justice and lack of empathy of the government and institutions. This research paper will examine their culture, which makes them distinct from others and unique. It also talks about the contribution of Tribes to indigenous medicines and how tribals used flora to remedy many diseases. The paper concludes by arguing that these nomadic tribes are still seen through the lens of suspicion or as hereditary criminals, and to end this, we really need a strong policy framework and inclusion of them in the overall development of society.

**Keywords:** Tribes, criminalization, hereditary stigmatization, habitual offenders, indigenous medicine, survival

### Introduction

Nomadic Tribes are also known as *vimukta jatis* in India because after the Criminal Tribes Act of 1871 was repealed in 1952 by the then congress government these tribes were declared free. The word Nomadic itself reflects their basic characteristics, as these people have no fixed residence and are always on move from one place to another usually aligned with the seasons and they also don't have any fixed territory. During British Rule, these tribes were the first ones who encountered the mighty Britishers. They invoked radical methods such as insurrection in the fight against the Britishers. There are many reasons behind these uprisings which are relatable here to mention because due to this vehement resentment the Britishers enacted the Criminal Tribes act which paved way for their criminalization and marginalization. The colonial government tried to end their century-long isolated living and started to integrate them into the mainstream, also introduced new taxes on tribal products which were free for hundreds of years, and introduced the Zamindari System and gradually try to weave the same pattern they were implementing in entire India, by creating middlemen such as moneylenders, traders, revenue farmers. One important point here is propagating Christianity in the tribals by fostering a large influx of Christian Missionaries in Tribal areas. This created deep resentment and anger within Tribes who gave paramount importance and pride to their culture and always remain isolated. By doing these they integrated the tribals into a highly exploitative economic structure which was the chief instrument of their exploitation. Similar to the whole of India, tribals started to incur debt which was rising enormously and forcing tribals to sell their lands which they were holding on to a communitarian pattern. Also as I mentioned in the very first paragraph the Tribes used to move from one land to another for their cultivation and for forest food, fuel, and cattle feed but the colonial government

invoked new forest laws that prohibited their movement and restricted access to forests since they also being engraved in the colonial economy they also faced the brunt of oppression and extortion by the colonial masters. All this culminated in a vehement struggle against the Britishers by the Tribals all over India, some of the remarkable struggles are from the Santhals of Bhagalpur, Kols of Chhotanagpur, Munda's, and so on. I'd argue here these resentments compelled the colonial government to enact more stringent laws and make sure that Tribals won't dare to rise in arms against the British Empire in the near future. They already saw that the ethnic ties between Tribals are really strong that created an unannexed unity and solidarity amongst them and due to this Britishers faces several problems and challenges form them. Also, their resort to militant ways like using traditional weapons resulted in a kind of fear amongst Britishers who were not encountering any armed struggle except the Revolt of 1857 on this scale and with unparalleled intensity. Though due to colonial attempts to integrate them into the mainstream they were somehow woven into the mainstream and their relation with the society underwent substantial changes, but at the same time, this led to the loss of land, restrictions on their movement, and spurred poverty and loss of livelihood for Tribals. This all culminated in criminalizing these tribals and subsequently flooded the prisons which affects not only their livelihood and undermine their culture but also created a new perspective within society which now started to consider them as "born criminals" or "Habitual Offenders".

### Colonial Criminalisation and Historical Marginalisation

Tribals underwent what we can refer to as "hereditary stigmatization" by being marked as a threat to society. This stigmatization is similarly attached to caste primarily based on the birth of an individual and stigmatized the whole community. As I mentioned above, due to the enactment of

the Criminal Tribes act, the colonial government created an image of Tribals as those who are born criminals and habitual offenders, though no one would deny the fact that some minuscule portion of these tribes resorts to theft and robbery but what we are witnessing is a generalization which is morally and ethically wrong and led to the suffering of the whole tribe. Though the decolonization process tried to reverse this reality as we know decolonization is a very slow process and gradually worked, the so-called democratic institutions inherited this colonial mindset, and even though the Criminal Tribes act was repealed, the government comes with the Habitual Offenders Act of 1956 the dreams and cherished goals of founding father to uplift these tribes and decriminalize them remains unfulfilled. This act enabled the government to designate the individuals from these tribes as Habitual Offenders if they have committed and been convicted of crimes in the past. Since the police forces and whole institutions of criminal justice which have a colonial legacy believed that these people are born criminals, they used to arrest them and torture them, so in order to escape from that torture they would admit the crimes which they never committed, this resulted into their incarceration in prisons and further led to their designation as a Habitual Offenders. These laws give sweeping and unrestrained powers to authorities to arrest any people of this community merely on the basis of suspicion and perpetuate that these people are addicted to committing non-bailable offenses. The writer belongs to one of the tribes which still considered criminals and experienced first-hand experience of arbitrary arrest of members of this community. They languished in prisons and lockups due to a lack of resources for legal aid. The National Human Rights Commission (NHRC) suggested repealing the Habitual Offenders Act but the government has done nothing and ignored the same. The tribals not just face oppression from the state machinery but also from society. The colonial mindset still pervades and the relationships that underwent a substantial change after the enactment of the Criminal Tribes Act endured which implies a clear failure of the government and our freedom fighters who just focused on the external enemy while leaving unaddressed the internal evils of Indian society. Because of their nomadic culture, they don't have any fixed residence which creates a problem for obtaining documents such as ration cards, Aadhar cards, and other address proof, due to this in government schemes they are barely considered beneficiaries and are kept away from government programs. This further aggravates their problems and creates major hurdles in enjoying benefits as citizens. Women of this community suffered the most, verbal abuse, and sexual harassment was practiced on a wide scale against them. What was changed after the enactment of the Constitution is the only "label" earlier they were considered Criminals by Birth now they are considered Habitual Offenders or someone who is addicted to committing a heinous and non-bailable offense. One point is very important here, the police force usually makes a forged case against the tribes because they are well aware of the fact that nobody would come forward to defend them, and for them, the established notion of presumed innocence (i.e., a person should be considered innocent until proven guilty) remains invalid and inapplicable. Due to this stigmatization and generalization people from these communities hardly get any employment opportunities, they face staunch

discrimination in educational institutions, in employment opportunities. Some of the tribes are also excluded from the SC and ST, due to this they are not protected by the Prevention of Atrocities Act(1989) and hence don't have any legal protection against exploitation. These atrocities on Tribals become endemic and compelled them to resort to violence which is considered counter-violence against the state and society. Some of the tribal men were now influenced by the left ideology and joined hands with the Naxalite forces for instance in Jharkhand, Chhattisgarh, and some districts of Maharashtra. Also, the cybercrime accused usually take shelter in these Naxalite-prone areas in order to escape from the police forces. Some of the tribes even demanded a complete separation from the Indian Federation, the Naga Tribes of Nagaland could be an example, they argued that their culture and their life is inherently different from the mainstream society and they should be allowed to have a separate national flag, constitution, and separate identity. I highlighted all the problems and problematic behaviors of institutions of criminal justice but now I'd argue that still most of the problems can be resolved by conforming to constitutional morality as advocated by Dr. Ambedkar. In his enunciation of Constitutional Morality often the onus was directed toward the citizens to follow the principle but Dr. Ambedkar also argued that constitutional morality is not just for the citizens but also for the lawmakers, law executors, and law adjudicators, and if the representatives, bureaucrats or executives, and the judiciary conform to the principles of the constitution then it may result into the change in attitudes. Dr. Ambedkar also argued that "unless we don't have social acceptance for rights, no constitution, no law, no government can guarantee it." It is essential that we usher substantial changes in the behavior of our society towards tribes and for that inculcation of constitutional values, inclusive education and regular workshops are needed also NGOs could play a very pivotal role in it. Another point is that every tribe should be covered under the Prevention of Atrocities act and not just the SCs or STs because it is clearly evident that these tribes also face burnt of discrimination and atrocities even though they are not part of the caste system, still, they very much considered as lower caste and their stigmatization and criminalization endures similar to other lower caste people. Tribes, as depicted by Dr. Ambedkar, are a threat to the Hindus and living in a savage state, he argued it was due to failure of the Hindu religion that failed to assimilate them into the civilization, their strict observance of the caste system didn't allow them to go between the tribes and cultivate feelings of love and belonging which the Christian Missionaries are doing.

### **Cultural Identity, Social Organization, and Everyday Life of Tribals in India**

There are over 500 tribes in India, and they are considered the original inhabitants of this land. Their place of habitation is still largely in the forests, though some have now shifted to the villages and urban areas. Some of them were highly skilled and hence their name signifies their skills, for instance, in the Bhil Tribes, Bhil means Bow, these men are exceptionally good in archery and hence played a pivotal role in many battles and they are bestowed with the talent of making arrows and other stuff. Since every tribal group is endogamous this helps them to preserve their culture and at

the same time averted their integration into the mainstream. They are deeply patriarchal and all their socio-economic matters, as well as disputes, were resolved within their own panchayats where the head or the oldest person of tribes acquired the topmost post. Their culture has a significant influence of superstitions and they widely practiced animal sacrifice for salvation or for making god or goddess happy. The writer himself has witnessed this and even the IAS officers from this tribe continue this practice unabated. Their unique dance and music are part of their rich culture. For instance, the Bhils perform Ghoomar and Gair dance during the Shravana period which is in the July-August months as religious dramas. They are also talented in Arts and make astonishingly beautiful sculptures of horses, elephants, and tigers, one can visit the Melghat of District Amravati of Maharashtra to experience their rich art. In terms of dowry, the bridegroom's party has to pay to the bride's party which is quite opposite to the preestablished norm though a punishable offense under the Dowry Prohibition Act of 1961. Another superstition that is prevalent in the Tribals is that many of the members especially in the Pardhi Tribe of Maharashtra believe and act in the way that they embraced god's soul within them. The writer witnessed this superstition in so many family members and even the educated class amongst this tribe believes in it! Polygamy and child marriage are allowed but most men preferred the monogamy practice. In terms of social gatherings, women are considered equal to men and can drink locally made beverages or eat with them contrary to mainstream practice where women have a separate place for social gatherings. Young girls and boys can live in dormitories where the elders introduce the younger ones to the intricacies of marriage life and provided them a platform for their socialization with others. Headhunting was also very popular amongst the tribes, for instance, the Konyaks of Nagaland used to have headhunting as a kind of sport, male members usually go outside and beheaded the animals and keep their heads as a symbol of their valor and strength. Some of the tribes are also matriarchal in nature, for instance, the Rabaris of Rajasthan is an example of that, Rabari women who dressed in black Ghagra Chowli handled financial and business matters. These are some distinct cultural traits of Tribals that make them inherently different from the mainstream society, it was argued that due to this difference we can't assimilate them into the mainstream but as our constitution envisioned in form of the sixth schedule, we can still integrate them by protecting their integrity by securing their culture from an onslaught of majority and at the same time accord autonomy in their internal matters. Our assimilation of tribals can't be the attempt to rewrite or erase their distinct cultural traits and imbibe our own but what we really need is to protect their culture and accord them some kind of autonomy so they can live with pride and dignity. There are some evil practices amongst the tribes and their resort to superstition is deeply problematic but this can be addressed not by using force but by inculcating education and working amongst them as some of the Christian missionaries did in the pre-independence era.

### **Indigenous Knowledge Systems and Traditional Healing Practices**

In India, we have very rich biodiversity and an ample amount of flora-fauna. Here the example of tribals of the

Washim District of Maharashtra worth mentioning, tribals from this district has a cure for many diseases including urinary problems, contraceptives, sterilization, milk secretion, and so on. The women are well grasped with this knowledge and prefer traditional plants as medicines over the available drugs or pharma products, they used these plants for abortion, menstrual trouble, conception disorders, sterility, delivery problems, etc. Similarly, the Tribals widely drink the locally made beverages which have been made from the mahua flowers, these flowers are also used as medicine for various diseases, these beverages are considered healthy and women from this tribe also drink them with men. In Maharashtra state, the government even legalized the sale of these mahua flowers and trees because of their usefulness for tribes. Though indigenous medicines are preferred over pharma medicals because of their almost nil side effects, but their unbridled production could lead to a serious issue or threat to biodiversity. It is estimated that the market for indigenous medicines is around 4000 crore, and the commercialization of indigenous medicines could be a serious problem. Tribals due to their nomadic ways of life usually don't have access to healthcare hence similar to reliance on forests for food, fuel, and other kinds of stuff they rely on indigenous medicines for healthcare. These plants are very useful and their knowledge can also be beneficial to reducing overwhelming reliance on pharma drugs which certainly causes so many side effects. Their knowledge of indigenous needs to be preserved and has to utilize for the larger humanity. The unbridled collection of indigenous medicines plants by pharma companies for fetching profits is endangering the biodiversity and rich culture and knowledge of these indigenous medicines, this has to stop, for this regulation from the government is important, otherwise, it could lead to a serious threat to our rich flora-fauna and incur damages to our biodiversity.

### **Contemporary Realities: Exclusion, Livelihood, and State Recognition**

It's been seven decades since they were denotified, and it's been seven and half decades since they were declared full citizens after the enactment of the constitution but neither their emancipation worked as planned due to the lack of commitment of institutions nor society's behavior towards them has changed. Our society is still deeply stratified due to the caste-class divide and concentration of wealth, offices, and honors in hands of a few. Due to all of this stratification, these tribals are pushed to the margins of society along with Dalits and other minorities. They suffered identity loss and are vulnerable to invisibility, most of the government schemes for their rehabilitation are still exclusionary and the unbridled capitalism in search of precious minerals usurping whatever land they possessed or trying to displace them from their native forests. On the other hand, society still presumes them as criminal by birth and exclude them in every possible way, due to a lack of leadership and nomadic nature no political party or leader is interested in listening to their voice. All this have led to disenfranchisement and loss of citizenship, their life is still miserable and the NCRB data tell us that these are the people who have been languishing in prisons due to lack of resources for legal representation or booked in forge cases. They incur everyday atrocities from the police forces in lockups and their women are subjected to everyday sexual harassment, rape, and torture by police personnel. Dr.

Yengade has written that we usually consider the success of one person from a marginalized community as like every other person has an equal and unhindered opportunity like the one who succeeded, but at the same time willfully ignore the fact that success of one can't be a guarantee or a surer way for success for others. Here lies an intense paradox in our society, a tribal woman can become the highest civilian in this country or president but at the same, in another part of this country, a tribal woman is also vulnerable to inhuman exploitation from the hands of the wife of an ex- IAS officer. This paradox is something that endured, and society's behavior towards the tribals has more or less the same as it was seven decades ago, what changed is just the label, earlier the tribals were considered born criminals now they are considered habitual offenders and persons who were not considered to be humans. This stratification derives its noble and divine sanction from religious scriptures that ordained the caste system as stabilizing force for society, and if not followed then they argued it'd lead to extinction or havoc in our society. We need to fight not from the institutions but also these mindsets deeply embedded in our society by invoking religious ordains, for that we need to understand the intricacies and the social relationship that has taken place between the marginalized sections of the society and the majority. For these, we need to challenge the colonial mindset that still pervades and perpetuates with the help of religious dictums, and decolonization of mindset and institutions is the need of the hour.

### Conclusion

From the beginning we've been taught that there are six fundamental rights for every member of society, but still, one fundamental right goes unnoticed, this right ensures that the whole society can exploit and inflict innumerable atrocities on the tribals, this right derives its sanction sometimes from religiously ordained caste structure or the colonial mindset that changed the relationship between the sections of a society substantially, this right sometimes overrides the all existing rights even the right to live a life with dignity. The situation of tribals is still vulnerable and precarious; they are still far behind the majority in terms of overall development, they are still not considered a full citizen and are struggling to avail the benefits of citizenship, the society still does not consider them as humans and always conceives them through the lens of suspicion. Their otherness and invisibility to government institutions are apparent and have been influenced by the colonial mindset. Some of the literate tribals are now equipped with literature and influenced by the contemporary movement in Dalit literature, and have started to write about their rich culture and heritage. Now they are becoming their own storyteller instead of relying on the mercy of mainstream literature. This literature movement, similar to the Dalit literature movement, has spurred a new wave of awakening within tribes; some educated people from this community now also contribute to the emancipation and upliftment of their fellow brothers and sisters. But no one can match what the state apparatus can do with highly organised and fully resourced machinery. The state now has to start decolonisation of the mindset of its institutions and look forward to their rehabilitation. While assimilating them, it is of paramount importance that their unique culture and heritage, their precious knowledge of indigenous medicines, and their

practices are not allowed to be subsumed by the majority traditions; it's essential that we allow as much autonomy and protection to them as possible under the law. We also need to scrap the colonial legacy of the Habitual Offenders act and provide free legal aid to undertrials and those who have been booked under forged cases. Sensitization camps should be arranged for society and for the members of the criminal justice system including the police forces. Some of the tribal areas( like Melghat in Amravati District of Maharashtra) suffering from acute malnourishment, the government needs to channel more resources and efforts for amelioration of malnourishment, at the same time in order to remove superstitions within these tribes, the government and the society have to work together in active sensitisation by going into their habitats. All this requires a complete overhaul of the existing mindset and a new policy framework for the government and the drafting of new policies which resembled and take into consideration the pressing needs of these tribes. While it is quite easy to cherry-pick a single woman and make her president as a symbolic representation, none of these kinds of steps will make an impact on the millions of tribals who are struggling for even two meals or facing arbitrary trial merely on suspicion of being a born criminal. The whole society was taken aback when we heard that the wife of an ex- IAS officer kept tribal women in bondage for nine years in her home without allowing the tribal women to experience the sunlight for years and inflicting inhuman atrocities which even a well-conscience human, if heard, would lead to goosebumps and mental trauma. This change of mindset is the biggest task for the policymakers and the society as a whole, this is a real task that we need to tackle and we have to do it together by invoking constitutional values, morality, and humanity on the one hand and on the other by waging a war on colonial mindset by these tribes, so they can live a life full with dignity and honor and enjoy benefits of citizenship and members of the society.

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