

## What Is to Be a Distinct Tribe? The Contestation in India

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### Introduction:

Etymologically, the word 'tribe' is derived from the Latin 'tribus' (Sneath, 2016). The word 'Tribus' may be connected with the Latin word 'Tres', which means 'Three' in English (Momigliano and Cornell 2016). In ancient times, the Roman state was supposedly divided into three tribes: *Rammes*, *Tities*, and *Luceres*. Guha (n.d.) stated that 'Tribus' is an old Latin noun, originally referring to the divisions of ancient Roman people. It may be a compound word, meaning 'the three peoples' or 'three orders.' The three divisions were used for administrative purposes and served as voting units in ancient Rome. In the book of Genesis, the first book of the Bible, the twelve tribes of Israel are named after Jacob's twelve sons: Reuben, Simeon, Levi, Judah, Dan, Naphtali, Gad, Asher, Issachar, Zebulun, Joseph, and Benjamin (New King James Bible, 1985/2016, Genesis 49:1-28). The division of the 12 tribes represents the nation of Israel, and each son of Jacob signifies a tribe. In this context, a tribe constitutes a social unit that is distinguished from the larger community for administrative purposes. Direct linkages between tribes and kinship and lineages are not evident in the historical divisions of the Israelites and Romans. Furthermore, there are no substantiated records indicating divisions based on social status or hierarchy. By the sixteenth century, the understanding of a tribe had extended beyond biblical interpretations in ways that resembled concepts of race and lineage (Murray 1926:339).

With the expansion of Western colonialism, the meaning of a tribe took on a new definition. The term came to refer to a social unit within society, often viewed as more primitive than Western colonisers. Yapp stated: 'It was only with the sixteenth-century expansion of Europe into the Americas and Africa that the association of tribes with a more primitive order of mankind began, and only with the Enlightenment of the eighteenth century that this was formalised into that concept of progress which set tribal people outside the pale of civil society' (Yapp 1983:154). Western colonists constructed a philosophy asserting that the natural course of human development was towards increasingly advanced forms of social, economic and political organisation. Those who remained clustered in tribes symbolised an inferior stage of existence, considered abandoned by the progress of history, and destined to be saved and transformed by the influence of greater powers. Therefore, the term 'tribe' was most frequently linked to the word 'savage'.

### International understanding of Tribes and Tribal Communities:

The terms used to refer to 'tribe or tribal people' are employed worldwide under various names. The 1988 Constitution of Brazil recognises the tribe as an 'indigenous people' and states in Article 231 that they are 'the first and natural owners

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of the land’ (Constitution of the Federative Republic of Brazil, 1988). In Canada, Section 35 of the Constitution Act, 1982, recognises and affirms ‘aboriginal’ and treaty rights, including land rights and the right to self-government (Government of Canada, 2025). In the Philippines, the 1997 Indigenous Peoples’ Rights Act recognises the rights of ‘indigenous peoples’ to their ancestral domains, land, and resources. The constitutions of Norway, Sweden, and Finland recognise Sami Parliaments for the Sami people, granting the ‘indigenous group’ the right to preserve their culture and language and to establish their own elected consultative bodies. The constitutions of Mexico, Nicaragua, Panama, Paraguay, Peru, and Venezuela have incorporated some form of recognition for their ‘indigenous peoples,’ often including the right to traditional lands. Article 69 of the Constitution of Russia also guarantees the rights of ‘indigenous peoples’ in line with universally recognised principles and norms of international law and treaties (Constitution of the Russian Federation, Art. 69). Article 4 of the People’s Republic of China states that all ‘ethnic groups’ in the country are equal to each other. The state protects the lawful rights and interests of minority ethnic groups.

The countries that explicitly include the words ‘tribe or tribal people’ in their constitutions are the United States of America (USA), India, and Bangladesh. Article 1, Section 8 of the United States Constitution grants Congress the power to regulate commerce with Indian tribes (the Indian tribes are Native Americans). It states that Congress shall have the authority ‘to regulate commerce with foreign Nations, and among the several States, and with the Indian tribes.’ Article 342 of the Indian Constitution states that ‘the President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for this Constitution be deemed to be Scheduled Tribes (STs) in relation to that State or Union territory, as the case may be.’ In Bangladesh, Article 23A of the Constitution, as inserted by the Constitution (Fifteenth Amendment) Act, 2011, states that the State shall take steps to protect and develop the unique local cultures and traditions of the tribes, including minor races, ethnic sects, and communities.

International law and policy use the term ‘tribe’ not independently, but as part of ‘indigenous and tribal people.’ The Indigenous and Tribal Populations Convention, 1957, in its preamble, states that ‘there exist in various independent countries indigenous and other tribal and semi-tribal populations which are not yet integrated into the national community and whose social, economic, or cultural situation hinders them from benefiting fully from the rights and advantages enjoyed by other elements of the population’ (International Labour Organisation, n.d.). In 1989, the Indigenous and Tribal Populations Convention, 1957, was revised and replaced by the Indigenous and Tribal Populations Convention, 1989. Its main focus was ‘recognising the aspirations of the tribal peoples to exercise control over their own institutions, ways of life, and economic development, and to maintain and develop their identities, languages, and religions, within the framework of the States in which they live’ (International Labour Organization, n.d.).

Therefore, the understanding and identification of the tribe are not a new phenomenon but are accepted and acknowledged in various ways, such as ‘aborigines,’ ‘indigenous,’ ‘tribe,’ ‘tribal communities,’ and ‘ethnic groups,’ among others.

### **Tribes in the Indian context**

The concept of tribes was used in India before independence. In the Imperial Gazetteer of India (1909), a tribe is defined as ‘a collection of families, or groups of families, bearing a common name which, as a rule, does not denote any specific occupation; generally claiming common descent from a mythical or historical ancestor and occasionally from an animal, but in some parts of the country held together rather by the obligations of blood-feud than by the traditions of kinship; usually speaking the same language; and occupying, or claiming to occupy, a definite tract of country’ (Frowde, 1909, p. 308). According to the Census of India 1931, STs are termed ‘backward tribes’ living in the ‘Excluded’ and ‘Partially Excluded’ areas of the country. The Government of India Act of 1935 called for representatives of ‘backward tribes’ in provincial assemblies to be included. However, the Indian Constitution does not provide a clear definition of the term ‘tribe’. As per Article 366(25) of the Constitution of India, STs are the tribes or tribal communities or parts of or groups within such tribes or tribal communities as enshrined under Article 342.

In 1965, the Lokur Committee submitted a report to the Department of Social Security, Government of India, highlighting five criteria for identifying the Scheduled Tribes (STs) in India. These criteria are as follows: (i) primitive traits, indicating traditional lifestyles and economic activities; (ii) distinct culture, encompassing unique cultural, religious, and linguistic practices; (iii) geographical isolation, signifying residence in remote and isolated areas; (iv) shyness of contact, reflecting reluctance to engage with the wider community; and (v) economic and social backwardness, denoting disparities compared to mainstream populations. Following the Dhebar Commission’s (1973) recommendation, the Government of India established a sub-category within STs in 1975 called Primitive Tribal Groups (PTGs), later renamed Particularly Vulnerable Tribal Groups (PVTGs). The main characteristics of PVTGs include homogeneity, small population size, isolation, simple social institutions, absence of written language, relatively simple technology, and slower rates of change. The Government of India applies the following criteria for identifying PVTGs: (i) pre-agricultural level of technology, (ii) extremely low literacy levels, (iii) subsistence-level economy, and (iv) a stagnant or declining population. According to the Ministry of Tribal Affairs, Government of India, there are 75 tribes categorised as PVTGs in India.

The tribes in India are known in different ways: ‘*Vanyajaati*’ meaning Castes of forests; ‘*Vanvasi*’ meaning inhabitants of forests; ‘*Pahari*’ meaning hill dwellers; ‘*Adimjati*’ meaning original communities; ‘*Adivasi*’ meaning first settlers; ‘*Janjati*’ meaning folk people; and ‘Anusuchit Janjati’ meaning Scheduled Tribes (Dey n.d.).

### **Tribes and Constitutional Provisions in India:**

The Constitution of India provides significant safeguards for the overall development of tribes and tribal communities in India. Safeguards can be categorised into the following groups:

The first is the safeguards for the services of tribes and tribal communities. The Constitution of India explicitly provides for the protection of tribal services. Article 16(4) relates to reservations in appointments for backward classes to ensure adequate representation in government jobs. Article 16(4A) authorises the state government to make provisions for reservations in promotions for Scheduled Castes (SCs) and

Scheduled Tribes (STs). Article 16(4B) discusses the carry-forward of unfilled reserved vacancies to the subsequent years.

The second is the safeguards of economic rights. Article 244(1) discusses the administration of scheduled areas and STs in states other than Assam, Meghalaya, Mizoram, and Tripura, which are covered under the Sixth Schedule, through the provisions of the Fifth Schedule, with specific rules for protecting tribal land, culture, and resources. Article 275 permits the central government to provide grants-in-aid to states, especially to promote the welfare of STs and enhance the administration of tribal areas. Article 244(2) enshrines the provisions of the Sixth Schedule for tribal areas in Assam, Meghalaya, Tripura, and Mizoram. Under this framework, tribal areas are administered as autonomous districts, exercising legislative, executive and judicial powers over specific matters.

The third is the safeguard of educational and cultural rights. Article 15(4) discusses a provision that allows the government to make special arrangements for the advancement of socially and educationally backward classes of citizens, such as SCs and STs. Article 46 is a Directive Principle of State Policy that guides the state government to promote the educational and economic interests of SCs, STs, and other weaker sections of society. The state government must protect these communities from social injustice and exploitation. Article 350 guarantees the right to submit representations for any grievance in languages used in the Union or State government, preventing language barriers in official communication. Article 350A requires every state and local authority to provide adequate facilities for primary education in the mother tongue of children from linguistic-minority groups. Article 350B mentions a provision for the appointment of a Special Officer for Linguistic Minorities, known as the Commissioner for Linguistic Minorities (CLM), to investigate matters related to the safeguards for linguistic minorities.

Fourth, there are no constitutional provisions exclusive to STs concerning the protection of their social rights. Article 23 prohibits human trafficking, forced labour, and other similar forms of exploitation, safeguarding individuals from state and private actions. Violations are punishable by law. While the state may impose compulsory service for public purposes, it cannot discriminate based on religion, race, caste or class. Article 24 forbids the employment of children under the age of 14 in any factory, mine, or other hazardous occupation. It aims to protect children from exploitation, safeguard their health, and ensure their well-being and access to education. Although Articles 23 and 24 are not solely for STs, they substantially protect the interests of STs, who are an economically marginalised section of society.

The fifth is the safeguard of political rights. Article 330 mandates the reservation of seats for SCs and STs in the Lok Sabha, proportional to the population composition of the SCs and STs. The primary objective was to ensure the political representation of minority groups.

The sixth is the safeguards through legal frameworks. In addition to the constitutional provisions for tribes enshrined in the Constitution of India, certain legal frameworks provide special provisions and protections for STs in India. The Acts include (a) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and (b) The Scheduled Tribes and Other Traditional Forest Dwellers Act, 2006. The

National Commission for Scheduled Tribes (NCST) was established on 19 February 2004 through the 89th Constitutional Amendment Act. It is a constitutional body that plays a crucial role in safeguarding tribal interests. Its primary function is to closely monitor issues related to the rights, security, and socio-economic development of tribes in India. The Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA), was enacted to extend the provisions of the panchayat system of local governance in scheduled areas. The Act empowers village administrations to self-govern, manage natural resources, and protect customs and traditions.

Article 371A provides special provisions for the state of Nagaland (a tribal-dominated state) to protect its religious and social practices, customary laws, and ownership and transfer of land and resources. It requires the Nagaland Legislative Assembly to pass a resolution for any parliamentary act to apply to the state of Nagaland. The article was introduced by the 13<sup>th</sup> Amendment Act of 1962, which granted the Governor of Nagaland special responsibilities for law and order.

Article 371G of the Indian Constitution also provides special provisions for the state of Mizoram, granting the state Legislative Assembly the authority to decide whether any Act of Parliament concerning religious or social practices, Mizo customary law, customary law-based justice, and land ownership would apply to the state of Mizoram. The 53<sup>rd</sup> Constitutional Amendment Act of 1986 was enacted to protect Mizoram's unique cultural and traditional heritage.

The constitutional provisions and legal frameworks for the protection and overall development of tribes in India stand as a written testament to the inclusivity of Indian democracy and its structural function. These provisions include safeguards for the social, economic, cultural, political, and educational rights of tribes and tribal communities. Despite numerous constitutional provisions and legal safeguards, tribes and tribal communities in India still find themselves at a crossroads regarding development, especially when compared with other sections of society.

#### **What it means to be a distinct tribe in India:**

The tribes listed in the Constitution (Scheduled Tribes) Orders 1950, which are periodically amended, are recognised by the Government of India as STs. The Indian Constitution does not specify clear criteria for identifying or categorising a tribe as belonging to STs. According to Article 342 of the Constitution of India, the President of India, in consultation with the relevant state governor, can declare a tribe as ST. The Lokur Committee (1965), in its submitted report, outlined five criteria for identifying tribes, including 'distinctive culture.' The Debar Commission report on the Scheduled Areas and Scheduled Tribes (1960-61) also listed certain factors to consider when declaring an area as a Scheduled Area, with 'exclusiveness and the distinctive way of life of the tribal population' (Debar Commission, p.60) being one of them. Similarly, the Report of the Joint Committee on the Scheduled Caste and Scheduled Tribes Order (Amendment) Bill, 1967, mentioned specific criteria for tribe classification, including 'distinctive culture'. The Ministry of Tribal Affairs, Government of India, in its press release dated 4 January 2008, highlights five criteria currently used to categorise communities as STs, one of which is 'distinctive culture.'

Furthermore, the Ministry of Tribal Affairs, Government of India, reiterated the modalities for inclusion and exclusion from the Scheduled Tribes in its press release

dated 18 November 2019. The Ministry stated, ‘The Government of India has laid down the modalities for determining claims for inclusion in, exclusion from, and other modifications to the Orders listing the Scheduled Tribes. According to these modalities, proposals that are only recommended and justified by the concerned State Government or Union Territory Administration and agreed upon by the Registrar General of India (RGI) and the National Commission for Scheduled Tribes are to be considered for legislative amendments (Ministry of Tribal Affairs, 2019). A subsequent press release was issued by the Ministry on 2 April 2025 reaffirming its adherence to the 2019 modalities for the inclusion and exclusion from Scheduled Tribes. In the unstarred question in the Lok Sabha, question number 1401, scheduled for answer on 2 February 2025 concerning the inclusion of the *Jhodia* Community in the ST list, the Minister of State for Tribal Affairs referred to the 2019 modalities and also mentioned that a proposal from the concerned State Government, along with an ethnographic report, is required for consideration.

The criteria currently used by the Ministry of Tribal Affairs, Government of India, for recognising a community as an ST are (i) indications of primitive traits, (ii) distinctive culture, (iii) geographical isolation, (iv) shyness of contact, and (v) backwardness (Ministry of Tribal Affairs, 2018). When these five criteria are examined in detail, four of them, excluding ‘distinctive culture,’ are inherently related to tribes and can serve as general criteria for identifying tribes in India. The social and customary practices of the tribes are comparatively primitive and ancient. They tend to settle in and inhabit areas that are isolated from other influential populations. They exhibit extreme shyness and hesitate to communicate with outsiders. Most importantly, they are marginalised and economically backward compared to the rest of the population. However, the criterion of ‘distinctive culture’ is exceptional because it varies among tribes and is influenced by factors such as language, customs, traditions, dress, ornaments, occupations, and belief systems. The criterion known as ‘distinctive culture’ is therefore the most critical aspect in defining tribes in India, as these distinctive cultures lead to the formation and identity of a ‘distinctive tribe.’

The criteria and modalities regarding the specification of STs, as enumerated by the Ministry of Tribal Affairs, Government of India, largely empower the concerned state government. A proposal must be submitted to the Union Government by the state government along with a report on the ethnographic study for consideration. This implies that unless the state government forwards any proposal, the government at the centre will not endorse or entertain any claim or demand for recognition as an ST in India. This further implies that unless the state government is convinced to initiate any action for a separate demand of recognition as an ST, a tribe in India has a remote chance of getting listed as an ST. The extent to which state governments in India have given due justice to the demand for ST recognition is a matter of academic discourse. There is a demand for ST recognition across India. For instance, in Assam, tribes such as *Tai Aboms*, *Chutia*, *Koch-Rajbanshi*, *Matak*, *Moran*, and Tea Tribes have long been demanding ST status (The Hindu, 29 October 2025). The *Kurmis* in West Bengal, Jharkhand, and Odisha have demanded ST status in each state (Kumar 2022). The Ranglong tribe of Tripura has also been demanding to be listed as ST for many years. There are also instances of the recent inclusion of tribes in the list of STs, such as the *Pabari* ethnic group, *Padari* tribes, *Koli*, and *Gadda Brahmin* of Jammu and Kashmir,

India. The same inclusion was made for the states of Andhra Pradesh and Odisha (Ministry of Tribal Affairs, 2024).

### Contestation in India:

There is a lack of constitutional mechanisms that provide specific directives to state governments regarding the demands for the inclusion of ST status by the tribes in India. Instead, the central government has delegated authority to state governments. The issue of tribes demanding ST status or being listed as such in India has taken on a political character in each state government. The First Constitutional (Scheduled Tribes) Order 1950 contains numerous errors in its list of tribes, particularly in northeastern India, and the respective state governments have failed to take steps to amend the original list. A thorough study of the list of STs in each Indian state reveals lapses in the identification of STs according to the criteria and procedures adopted by the central government. For example, *Chaimal (Saimar)* is a recognised ST community in Tripura, listed as Serial Number 3 in the Constitution (Scheduled Tribes) Orders (Amendment) Act of 2022. According to the 2011 Census of India, the *Chaimal* community has a total population of only 549 people. They are virtually indistinguishable as a community and are largely being absorbed into the *Halam* community in Tripura. Conversely, the *Ranglong* Tribe, with an approximate population of 7000, is not listed as an ST in Tripura. The *Munda*, *Orang*, and *Santal* are recognised and listed as STs in the states of Tripura and Bihar, but the same ethnic groups are not classified as STs in the state of Assam. Similarly, the *Chakma* community is listed as an ST in Tripura but is not recognised as such in Arunachal Pradesh. In a nutshell, India has given ample space to the state government to exercise political party politics regarding ST inclusion. Hence, the issue of specification and inclusion of tribes into ST is a bone of contention among different sections of society across the country. There is a lack of uniformity among state governments regarding the criteria and modalities adopted. This matter is significantly dependent on the political bargaining power of the concerned tribe with the government.

The demand for ST in India can be categorised into two types. The first involves communities that are not currently classified as STs but seek inclusion through the recognition of their community concerns. In this case, a specific community is not part of the ST category and requests inclusion under the ST category from another caste. The second type pertains to communities already recognised as STs, but whose community names are not listed in the official ST list. Essentially, the second demand focuses on including the community's nomenclature as a ST. An example of the first category includes the demands of the *Tai Aboms*, *Chutia*, *Koch-Rajbanshi*, *Matak*, *Moran*, and *Tea Tribes* of the state of Assam. These communities belong to different caste groups and seek inclusion in the ST list. The second category includes tribes such as the *Ranglong* tribe of Tripura and the *Sakachep* tribe of Assam. They are recognised as STs, but their community names are not listed in the official ST list. Before 2022, the *Darlong* tribe of Tripura also fell into this category. Their community's nomenclature has now been included in the ST list following the Constitution (Scheduled Tribes) Order (Amendment) Act 2022, No. 9 of 2022.

Hence, there is concern about the criteria and methods used by the state government for the inclusion and recognition of STs in the state. The criteria used by the state government in India to specify STs is a pertinent question that requires further

debate. If the basis for identifying ST is their unique cultures, then what is wrong with granting ST status to a distinct tribe, regardless of its geographical location? The state government needs to have a clear understanding of the nature of the demands for inclusion and recognition of ST status. The two categories of demand cannot be treated as the same and should not be dealt with similarly. The tribal community's request for inclusion or recognition as STs must be taken seriously by the government. A thorough ethnographic survey and research should be conducted based on demand, and if the criteria are met, the demand should be considered by the state government. The development and upliftment of tribes require a holistic approach and should not be limited to economic issues. Respecting and acknowledging the unique characteristics and nature of each tribe is essential to ensure comprehensive development. Numerous classifications of tribes from pre-independence India have been made based on their distinctiveness, as documented by scholars and historians (for example, G.A. Grierson, 1904). These sources should be considered when determining and identifying the tribes. The country needs a legal mechanism through which the central government can provide clearer guidance to state governments, ensuring greater transparency and accountability in the process of understanding STs.

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