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Xaxa Committee on Tribal Communities of India

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The Indian State must aim to ensure that all sections of society share in the economic and social prosperity of the country. It is widely acknowledged that a large section of the Indian population, especially the tribal communities, have not received the full benefits of development processes undertaken over the past six decades and adversely affected by the developmental projects undertaken during this period.

Accordingly, the Prime Minister's Office constituted a High-Level Committee (HLC) in 2013, under **chairmanship of Prof. Virginus Xaxa**.

The Committee was mandated to examine the socio-economic, educational and health status of tribal communities and recommend appropriate interventional measures to improve the same. It submitted report in May, 2014.

Introduction

Schedule Tribes

- The tribal population in India, though a numerically small minority, represents an enormous diversity of groups.
- They vary among themselves in respect of language and linguistic traits, ecological settings in which they live, physical features, size of the population, the extent of acculturation, dominant modes of making a livelihood, level of development and social stratification.
- While tribes have a distinct culture and history, they also **share commonalities with other marginalised sections** of Indian society, such as the lack of adequate political representation, economic deprivation and cultural discrimination.
- However, tribal society must be appreciated and it must be recognised that non-tribal people have much to learn from the richness of tribal cultures and systems of knowledge.
- **The category of 'tribe'** entails a social and cultural dimension **but the Scheduled Tribe** category has politico-administrative implications.

- **A majority of the Scheduled Tribe population** is concentrated in the eastern, central and western belt covering the **nine States** of Odisha, Madhya Pradesh, Chhattisgarh, Jharkhand, Maharashtra, Gujarat, Rajasthan, Andhra Pradesh and West Bengal.
- **About 12 per cent inhabit the North-eastern region**, about five per cent in the Southern region and about three per cent in the Northern States.

Political & Administrative History

- Tribal rebellions in the nineteenth century resulted in British policy of exclusion of Tribal areas from the operation of general laws.
- **Regulation XIII of 1833** created **Non-Regulation Provinces** and were to be governed by special rules for civil and criminal justice, collection of land revenue, and so on. It introduced a new system of administration in Singhbhum area.
- In the Northeast region, the British put in force **the Inner Line Regulation in 1873**, as the point beyond which general laws for the colony would not be applicable and entry of **subjects living outside the area was strictly prohibited**.
- As per Government of India Act, 1919, Governor General was exclusively responsible for law and administration and could act through local officials.
- According to The Government of India Act, 1935, the Governor could determine policy directly or through his agents in the tribal areas.
- Post independence, groups and communities identified and enumerated as tribes during British rule came to be re-classified as **Scheduled Tribes** after the Constitution (Article 342) was adopted in 1950.
- Areas where Schedule Tribes are numerically dominant, two distinct administrative arrangements have been provided for them in the Constitution in the form of the **Fifth and Sixth Schedules**.
- **5th Scheduled Areas** under the Constitution is “such areas as the **President may by order declare** to be Scheduled Areas”. **At present, 10 States** namely Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana have Fifth Schedule Areas.
- The provisions of the Fifth Schedule have seen further legal and administrative reinforcement in the form of **Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996** for more democratisation.
- The **Sixth Schedule** areas are some of the areas which were ‘excluded’ until the Government of India Act, 1935 in the erstwhile Assam and other tribal-dominant areas which became separate States.
- These areas (6th schedule) have also been given special provisions under **Part XXI** of the Constitution.
- **Removal of Area Restrictions (Amendment) Act 1976** removed area restrictions on the recognition of Scheduled Tribes, making lists applicable to entire States rather than blocks and districts within States.

- Areas where Schedule Tribes are a **numerical minority**, they are a part of the general administrative structure of the country. Certain rights have accrued to Scheduled Tribes across the country **through reservations** in educational institutions and government employment.
- Parliament and state legislatures are also empowered to create **tribal autonomous regions** out of ambit of 5th & 6th Schedules. For example – **Leh Autonomous Hill Development Council, Kargil Autonomous Hill Development Council, Darjeeling Gorkha Hill Council.**

Defining Schedule Tribes & various committees

- As per Census-1931, Schedule tribes are termed as "backward tribes" living in the "Excluded" and "Partially Excluded" areas. The Government of India Act of 1935 called for the first time for representatives of "backward tribes" in provincial assemblies.
- **The Constitution does not define** the criteria for recognition of Scheduled Tribes and hence the definition contained in 1931 Census was used in initial years after independence.
- However, Article 366(25) of the Constitution **only provides process to define** Scheduled Tribes: "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 first Backward Classes Commission (**Kaka Kalelkar Commission, 1953**) appointed by the President of India under Article 340, defined Scheduled Tribes as "They lead a separate exclusive existence and are not fully assimilated in the main body of the people. They may belong to any religion."
- **Elwin Committee (1959)** was constituted to examine the functioning of Multi-Purpose Development Blocks, the basic administrative unit for all tribal development programmes.
- **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 (1965)** was set up to look into criteria for defining Schedule Tribes. The Committee recommended **five criteria** for identification, namely, **primitive traits, distinct culture, geographical isolation, shyness of contact** with the community at large, and **backwardness**.
- **The Shilu Ao committee, 1966**, like the Elwin committee, addressed the issue of tribal development and welfare.
- **Tribal Sub-Plan approach** of the government emerged on the recommendations of several committees constituted during 1970s.
- **The Bhuria Committee (1991)** recommendations paved the way for the enactment of the **PESA Act, 1996**.
- **Bhuria Commission (2002-2004)** 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.

- **Bandopadhyay Committee (2006)** looked at development and governance in Left-Wing Extremist areas.
- **Mungekar Committee (2005)** 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.

Study & Analysis

The **five critical issues**: (1) livelihood and employment, (2) education, (3) health, (4) involuntary displacement and migration, (5) and legal and constitutional matters have been studied by **Xaxa Committee**.

- Of the five issues, first three are concerned with issues that have been at the root of **the post-colonial State's 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.
 - And yet the status of tribes in these spheres continues to be one of the critical gaps in India's road to development. This also raises the question of institutions and systems for delivery of public goods and services.
- **Massive development displacement**: As a part of the faulty 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 processes of urbanization as well.
 - It has been often loss of livelihood, massive displacement and involuntary migration of tribes.
- Another important issue analysed by the Committee is the **working of legislations**.
 - The Provisions of Panchayats (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 their legal status**.
 - However, **policies and practices** have been **slow** to absorb the **changed circumstances recognised 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.

Other observations

- In one of the discourses, the overall condition of tribal people, including their poverty, is attributed to **their social and geographical isolation**.
- **Verrier Elwin** attributed their deplorable and impoverished condition to their contact with the outside world, which had led to indebtedness and loss of control over their land and forests. (**Verrier Elwin (1902 – 1964) was a British self-trained anthropologist, ethnologist and tribal activist.**)
- **Integration and Development:** The nationalist leadership recognized both of these dimensions (social and geographical isolation) and addressed them. The provisions enshrined for Scheduled Tribes in the Indian Constitution are a testimony to this **dual approach**.

It provides for development as well as for safeguarding and protection of their interests.
- However, what the State is actually pursuing for tribals is assimilation rather than integration, contrary to what is claimed (development as well as for safeguarding and protection of their interests).
- **A policy of integration** would provide space for protections and safeguards for their distinct identity, as enshrined in the Constitution.
- There is also argument for **inadequate resource allocation** for tribal development.
- **Poor implementation of programmes** is offered as another explanation for the issue of lack of social development among tribes.
- Another arguments regarding poor development of the tribal populations is built around the **issue of the traditional socio-cultural aspects of tribal life**.
- For example, education in the regional language is usually familiar to the general population, including the Scheduled Castes, 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.

Beyond the concerns of inadequate resource allocation, ineffective implementation or tribal traditions, there is **needed to engage with the larger question of national and regional development**.

- The appropriation of tribal land and forests began during colonial rule and has continued to the present. Since tribal-inhabited regions are rich in mineral, forest and water resources, large-scale development projects invariably came to be located in tribal areas.
- States of Jharkhand and Odisha, which have considerable natural resources, but also the highest percentages of tribal people living below the poverty line.
- In 2004–05, the proportion of tribal people living below poverty line stood at 54.2 per cent in Jharkhand while the percentage was as high as 75.6 per cent in Odisha in the same year.

- **Overcoming tribal ‘isolation’ through large-scale mining**, industrial and infrastructure projects, as these States have witnessed, has clearly not resolved the problem of poor development indicators. Rather, these have led to **further impoverishment and vulnerability**.
- **The model of development** imposed on tribals has been questioned. Massive push to this development agenda with economic liberalisation and the entry of private corporations into tribal areas, has been met with considerable resistance by tribal communities.
- **Laws and rules** that provide protection to tribes are being routinely manipulated and subverted to accommodate corporate interests.
- **Violence:** 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.

Left-Wing Extremism (LWE)

- Of the nine States considered to be seriously affected by LWE, six are States with Scheduled districts.
- Among the 83 LWE-affected districts, 42 districts have Scheduled Areas.
- These regions are marked by the following features
 - Serious neglect and deprivation, widespread poverty and poor health and educational status;
 - Exploitation and oppression by traders and money lenders, on the one hand, and absence of an effective and sensitive civil administration, on the other;
 - Large-scale displacement of tribal people for development projects;
 - 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).
- 3 Perspectives through which LWE in the region is viewed:
 - The first view sees it primarily as a **national security problem** to be addressed militarily. This approach will result in the further alienation of tribal communities, widen the trust deficit between the State and the people, and strengthen the Maoists.
 - The second perspective notes the **overlap between Maoist strongholds and tribal areas** with dismal development indices and views more development as the only solution.
 - The third, a combination of the above two, **combines a military approach to secure the area with a focus on establishment** of better public infrastructure.

- However, there should be a **fourth perspective** based on the explicit recognition that there has been **subversion of the law by both government and corporations in order to appropriate tribal resources**, and that this situation needs to be rectified.
 - It acknowledges that **State failures** and the **trust deficit** have facilitated the entry of the Maoists into these areas and helped them gain some support among the people, particularly Dalits and adivasis.
 - Any solution, therefore, should **begin with confidence-building measures** through the redress of past wrongs and the guarantee of justice.

The Committee formulated thematic sections based on various socio-economic parameters:

1. Geographical and Demographic Profile
2. Tribes: Legal and Administrative Framework
3. Livelihoods and Employment Status
4. Education
5. Health
6. Land Alienation, Displacement and Enforced Migration
7. Legal and Constitutional Issues
8. Delivery of Public Goods and Services

1. Geographical and Demographic Profile

- **Census of 2011:** Total population of Scheduled Tribes is 10,42,81,034 persons, constituting 8.6 per cent of the population of India.
- **Draft National Tribal Policy, 2006** records **698 Scheduled Tribes** in India. As per the **Census of India 2011**, the number of individual groups notified as Scheduled Tribes is 705.
- The five broad regional groupings of tribes: **Himalayan Region** (a) North-eastern Himalayan region, (b) Central Himalayan region, and (c) North-Western Himalayan region), **Middle Region** (Bihar, Jharkhand, West Bengal, Odisha, Madhya Pradesh, and Chhattisgarh where more than 55 per cent tribal people of India live), **Western Region** (Rajasthan, Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli), **Southern region** (Andhra Pradesh, Tamil Nadu, Karnataka and Kerala), **Island Region** (Andaman and Nicobar in the Bay of Bengal and Lakshadweep in the Arabian Sea).
- **Northeast** is often viewed as a singular and homogeneous entity, the region is highly diverse with over 200 tribes and sub-tribes, each of which have their own language, culture and political structures.

Northeast differs from tribes in other parts of India, particularly in terms of their **historical relationship with the colonial and Indian State**.

- The Islands are administered as a Union Territory under the Central Government and are home to some of the smallest tribes such as the Great Andamanese, Onge, Jarawa and the Sentinelese.
- **Language:**
 - **Indo-European**-only a little over one per cent of tribal population speak languages of this family, the Bhil and Halbi tribes being the two main groups among them.
 - **Dravidian family** languages are spoken by tribes such as the Gond, Khond, Koya, Oraon, and Toda.
 - **Tibeto-Burman** languages are spoken by the tribes of the Himalayas and Northeast India.
 - **Austro-Asiatic** family of languages is spoken only by tribals in the country like the Santhal, Munda, and Ho.
- Scheduled Tribes communities live in about 15% of the country's area.
- Over 80% of Scheduled Tribes work in the primary sector against 53% of the general population.
- The sex ratio among the Scheduled Tribes is 991 females to every 1000 males in rural areas and 980 females to every 1000 males in urban areas, the average being 990.
- Regarding the distribution of ST population by States, Madhya Pradesh stands first with 14.7%, followed by Maharashtra (10.1%), Odisha (9.2%), Rajasthan (8.9%), Gujarat (8.6%), Jharkhand (8.3%), Chhattisgarh (7.5%), Andhra Pradesh (5.7%), West Bengal (5.1%), Karnataka (4.1%), Assam (3.7%), Meghalaya (2.5%), and the remaining States represent 11.6% of the tribal population.
- Proportion of ST population in the rural areas is 11.3% and in urban areas is 2.8%.
- **Particularly Vulnerable Tribal Groups (PVTGs)**
 - PVTG (earlier: Primitive tribal group) is a government of India classification created with the purpose of enabling improvement in the conditions of certain communities with particularly low development indices.
 - This was created based on the **Dhebar Commission report** (1960, it stated that within Scheduled Tribes there existed an inequality in the rate of development.)
 - The features of such a group include a **pre-agricultural system of existence**, which practices hunting and gathering, zero or negative population growth, extremely low level of literacy in comparison with other tribal groups.
 - PVTGs with population of less than a 1000 persons are: Birjia (Bihar), Sentinelese, Great Andamanese, Onge, Birhor (Madhya Pradesh), Asur (Bihar), Mankidias (Odisha), Jarawa, Cholanaicken (Kerala), Shompen, Birhor (Bihar), Savar (Bihar), Raji (Uttarakhand), Sauria Paharia (Bihar), Birhor (Odisha), Korwa (Bihar), Todas (Tamil Nadu), Kota (Tamil Nadu), Raji (Uttar Pradesh).

- **Forest Survey of India, 2011:** The total forest cover in the country is 692, 027 sq. km., 21.05 per cent of the total geographical area.
 - Integrated Tribal Development Programme (ITDP) covers about 411, 881 sq. Km. Therefore, almost 60 per cent of the forest cover of the country is found in tribal areas.
 - However, much of this forest was classified as **Reserved Forests** and **Protected Forests** as well as **Wildlife Sanctuaries and National Parks**, resulting in the marginalisation of tribal communities who were treated as encroachers on this land prior to the passing of the **Forest Rights Act, 2006**.
- **With regard to mineral resources**, three States with substantial tribal populations – Odisha, Chhattisgarh and Jharkhand - have considerable mineral reserves (Coal-70%, Iron ore-80%, Bauxite-60%, Chromites near 100%)
Centre for Science and Environment: about half of the top mineral-producing districts are tribal districts.
- **Dams:** About 40 per cent of those displaced by dam-building belong to the Scheduled Tribes. Scheduled Tribes constitute about eight per cent of the country's population; they are clearly disproportionately represented in the number of displaced persons.
- **Conflicts affecting tribal populations:**
 - Armed conflict between the **Communist Party of India (Maoist)** and the Indian state, which is ongoing in parts of the states of Maharashtra, Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Jharkhand, Bihar, Odisha and West Bengal, among others.
 - 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 Maoists.
 - **Northeast:** There are conflicts between the State and tribal groups, between different tribes, and between tribes and non-tribal groups – although the State is involved in all of these conflicts.
 - **Armed Forces (Special Powers) Act, 1958** is in operation in the states of Manipur, Assam and Nagaland as well as parts of Tripura and Arunachal Pradesh.
 - This Act gives considerable powers to the armed forces to arrest and search without warrant as well as shoot to kill on mere suspicion, once an area has been declared as 'disturbed'.
 - Many cases of extra-judicial killings, rapes and harassment by armed forces have been reported in these States.

2. Tribes: Legal and Administrative Framework

Scheduled Areas

- **Tribal rebellions in the nineteenth century**, the British became convinced of the vulnerability of tribal populations in the form of various 'outsiders' and assumed the role of **paternalist protectors** of tribals against the non-tribal exploiters. British policy advocated protection of these areas through exclusion from the operation of general laws.
- **Regulation XIII of 1833**: It introduced a system of administration in Singhbhum area. These areas came to be known as **Non-Regulation Provinces** and were to be governed by **special rules for civil and criminal justice, collection of land revenue, and so on.**
- In the Northeast region, the British put in force **the Inner Line Regulation in 1873**, as the point beyond which general laws for the colony would not be applicable and entry of **subjects living outside the area was strictly prohibited.**
- Government of India Act, 1919, Governor General was exclusively responsible for law and administration and could act through local officials.
- **The Government of India Act, 1935**, the Governor could determine policy directly or through his agents in the tribal areas.
- In the post-1947 period, however, 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.
- **Scheduled Areas** (under the Fifth Schedule of the Constitution) is “such areas as the **President may by order declare** to be Scheduled Areas”.
- At present, 10 States namely Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana have Fifth Schedule Areas.

5th Schedule

- **Fifth Schedule** contains provisions relating to the administration of Scheduled Areas.
- Areas can be designated Scheduled Areas on the order of the President.
- Part B of the Fifth Schedule provides for the creation of a **Tribes Advisory Council (TAC)** in each State having Scheduled Areas. 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”. **Shortcomings of TAC:**
 - The TACs can only discuss and make recommendations on those issues which are referred to it by the Governor.
 - It functions only in an advisory capacity and has no power of implementation.
 - The Councils are not accountable to the tribal population given that they are appointed by the Governor or the State Government.
- Fifth Schedule accorded far greater autonomy to tribal areas, but Tribes Advisory Council remained a mere consultancy body rather than an autonomous decision-making body.

- **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.
- It is the State Governments rather than the Governor which have framed the rules regarding TAC functioning which has led to the **near complete usurpation of these bodies by the political parties in power.**
- Governor’s reports is not covering issues of **displacement and rehabilitation**, law and order problem, tribal protests, **atrocities against tribes**, and so on. The reports do not offer an independent assessment of the policies of the State Governments vis-à-vis Scheduled Areas.
- There are a large number of States wherein tribes form a sizeable population in blocks or villages, for example, in States like West Bengal, Kerala, Tamil Nadu, Karnataka, Goa, etc. Tribal areas in these States are kept **out of the ambit of Scheduled Areas.**

Difference between 5th and 6th Schedules of Indian Constitution

- The 5th schedule designates Schedule areas in **large parts of India** in which the interests of the Scheduled Tribes are to be protected. The Scheduled area has more than 50 percent tribal population.
- The 6th schedule is related to administration of north-eastern states- Assam, Meghalaya, Tripura, and Mizoram.

6th Schedule

- **Northeast India**, home to numerous diverse ethnic groups and located strategically with borders with Bhutan, China, Myanmar and Bangladesh.
- Historically, tribes of Northeast India have seen “isolationist” policies of the colonial British who labelled many hilly tribal tracts of the Northeast as “wholly excluded” areas.
- In 1929, Nagas submitted a petition to the Simon Commission, asking for autonomy from the future Indian nation-state.
- Khasis and the Mizos called for self-governance on issues such as customary laws, control over resources and so on, while also demanding separation from the larger State of Assam.
- 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 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 (6th Schedule) **applies to certain tribal areas of the States of Assam, Meghalaya, Tripura and Mizoram.**
- Apart from the Sixth Schedule, there are other constitutional provisions in the Northeast such as **Article 371-A (Nagaland), Article 371-C (Manipur), Article 371- G (Mizoram).**
- Two types of Autonomous District Councils: (1) **set up under the Sixth Schedule, (2) & established by various Acts of the State Legislative Assembly.**
 - Autonomous District Council
 - Assam: Dima Hasao, Karbi Anglong, Bodoland under 6th schedule.
 - Entire State of Meghalaya except Shillong area is covered under the provisions of the Sixth Schedule- Khasi Hills, Garo Hills, Jaintia Hills.
 - Mizoram: Chakma, Mara, Lai
 - Tripura: Tribal Areas Autonomous District Council
 - Established by Acts-Assam(6), Manipur(6)
 - **Outside North-eastern India** - Leh Autonomous Hill Development Council, Kargil Autonomous Hill Development Council, Darjeeling Gorkha Hill Council.

State	Legal and administrative structure
Arunachal Pradesh	Article 371H. No Autonomous Councils, Panchayati Raj Institutions
Assam	Sixth Schedule, Article 371B. Three Autonomous Councils
Manipur	Article 371C, Manipur Hill Village Authority Act and Manipur Hill Areas District Council
Mizoram	Sixth Schedule, Article 371G, Three Autonomous

Assessment of the Autonomous District Councils under Sixth Schedule

- The State Governments has held the view that that these Councils ought to stick to their traditional role, which is to protect tribal culture, land and identity and refrain from engaging in developmental activities.
- In many cases, State Governments have deliberately impeded the functioning of the Councils, particularly through blocking the flow of funds to them.
- Powers given to the Councils to make legislation and implement development programmes have not been matched with the financial autonomy.
- 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).
- There is also no mandatory time limit for the reconstitution of the ADC once it is dissolved, and hence election is indefinitely postponed.
- 73rd Amendment to the Constitution provides for the reservation of one-third of all Panchayats seats at all levels for women, the Councils, unlike Panchayats, do not have any provision for such reservation.
- The demographic change is no longer reflected in the representative structure of the ADCs. Unless reviewed comprehensively, the Sixth Schedule could become one of the chief sources of future conflicts in the region.
- 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 Governments.

De-notified, Nomadic and Semi-Nomadic Tribes

- **Criminal Tribes Acts (CTA) of 1871:** About 200 communities were deemed to be 'hereditary criminals' and subject to surveillance, confinement and gross discrimination. It was in light of the then **prevailing notion that crime was a genetic trait** passed down from one generation to the next.
- The CTA was removed from the statute books in 1952 on the recommendation of the All India Criminal Tribes Inquiry Committee (1949) and henceforth, 'Criminal Tribes' came to be known as '**De-notified Tribes**' instead.
- Nomadic and semi-nomadic communities practice a range of occupations-pastoralists and hunter-gatherers, mainly shepherds, cowherds and hunters of small game, entertainers including dancers, acrobats, snake charmers, monkey trainers.

Particularly Vulnerable Tribal Groups (PVTGs)

- Certain tribes have been characterised 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, currently including 75 tribal groups have been identified as such on the basis of the following criteria: forest-dependent livelihoods, pre-agricultural level of existence, stagnant or declining population.
- As per the 2001 census, these 75 PVTGs had a total population of 27,68,322.
- The groups most under threat have been identified as the Shompens, Sentinelese and Jarawas of the Andaman Islands; the Bondos of Odisha; Cholanaickans of Kerala; Abujh Marias of Chhattisgarh and Birhors of Jharkhand.
- All tribes in the list of PVTGs have not been granted Scheduled Tribe (ST) status.
- States with PVTGs, Kerala, Karnataka, Tamil Nadu, Uttar Pradesh and West Bengal do not have Scheduled Areas, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.
- Habitat rights for PVTGs as guaranteed by the Forest Rights Act must be granted to them and definitional as well as procedural ambiguities must be cleared up.

3. Livelihoods and Employment Status

- Traditionally, the tribes in India pursued an economy, which was closer to nature, and used indigenous technology. This is reflected in their dependence on forests and other natural resources available in their habitat.
- While some tribal communities have adopted a way of life, similar to the neighbouring non-tribal communities
- In Traditional tribal economy, livelihoods of tribal groups are characterized by (a) forest-based livelihoods, (b) pre-agriculture level of technology, (c) a stagnant or declining population (d) extremely low literacy and (e) a subsistence level of economy.
- In the pre-independence period, tribes from Jharkhand, Odisha and Chhattisgarh, such as **the Munda, the Oraon, the Santhal and others had migrated to the sprawling tea gardens** of Assam as indentured labour. In post- independence era, they are not included in the list of Scheduled Tribes in Assam.
- Anthropological Survey of India:
 - Communities practicing hunting and gathering have declined by 24.08 percent, as forests have disappeared and wildlife has diminished.
 - There is a sharp rise in the number of Scheduled Tribes employed in Government and private services, self-employment, etc.
- **Land Ownership:** Household Ownership Holdings (HOH) through the 59th round of survey by the NSSO, average area owned per household in India is 0.563 hectare; it is 0.708 for 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.

- **Work Force Participation:**
 - **Worker Population Ratios** (WPRs – Worker population ratio is defined as the number of persons employed per thousand persons.)
 - As per NSSO (2012), in 2004-05 and 2009-10, 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.
 - **Labour Force Participation Rate** (LFPR- is defined as the number of persons in the labour force per 1000 persons. Any person who is working or is available for/seeking work will be considered part of the 'labour force'.)
 - As per Third Annual Employment & Unemployment Survey (2012-13), Labour Bureau, Ministry of Labour & Employment, LFPR 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:
 - Unemployment rates (UR-number of unemployed per 1000 in the labour force) and proportional Unemployment rates (PU-number of unemployed per 1000 in total population).
 - As per NSSO (2012), As per NSSO (2012), UR (17) and PU (10) for male & UR (9) and PU (3) for female in 2009-10.
- **Income: As per India Human Development Survey (IHDS), 2004-05**, ST households have the lowest annual income of Rs. 32,345 compared to general population (Rs. 72717).
- **Poverty: Panagariya and More** computed the estimates of the poverty rates as the **percentages of population below the Tendulkar poverty line** in rural and urban regions and in the combined areas (Rural + Urban), for Scheduled Tribes. As per 2011-12 census, 45.3% of tribal population is still below poverty line.

**Poverty
by Social
Groups,
1993-94
to 2011-12
in All-
India –
Rural,
Urban
and
Combined**

Social Groups	Percent of Share in Propulation	Regions	Percent of Population Below the Tendulkar Line	Percent Point Poverty Reduction				
	1993-94	2004-05	2009-10	2011-12	1993-94 to 2004-05	2004-05 to 2011-12		
Rural								
ST	11.1		65.9	62.3	47.4	45.3	3.7	16.9
FC	23.0		44.0	27.1	21.0	15.5	9.0*	11.6
All	100.0		50.3	41.8	33.3	25.4	8.5	16.4
Urban								
ST	3.5		41.1	35.5	30.4	24.1	5.6	11.4
FC	40.3		28.2	16.1	12.4	8.1	5.8*	8.0
All	100.0		31.9	25.7	20.9	13.7	6.2	12.0
Combined (R + U)								
ST	8.9		63.7	60.0	45.6	43.0	3.7	17.0
FC	28.0		39.5	23.0	17.6	12.5	8.1*	10.5
All	100.0		45.7	37.7	29.9	22.0	8.0	15.7

Estimated using comparable estimates of poverty among the OBC and FC combined in 2004-05, which came down to 35 percent (Rural), 22.5 percent (Urban) and 31.4 percent (Rural + Urban) in 2004-05.

Source: Arving Panagariya and Vishal More (2013).

Recommendations

- There is a dire need to establish agro-based training institutions and related labour-intensive processing industries in tribal regions.
- In order to make use of land available with the tribal farmers, they should be motivated to undertake organic farming and eco-forestry.
- Micro watershed development program with people-centred participatory approach is a good method for poverty reduction.

- 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.
- 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.
- There is severe under-representation of STs and pending vacancies in Central Government services.
- Therefore, the Government should follow a transparent policy with regard to jobs for STs in public sector.
- Tribes should be encouraged to use their traditional knowledge to meet their needs by recreating their forest ecosystem and forest-based livelihood.

4. Education

- The colonial government depended upon the Christian missionaries to induce and educate the tribes since 1854.
- The literacy rate of the tribals was only 3.46 per cent in 1951 owing to the British colonial educational policy, which did not care for the education of the tribal population.
- **Education as a Site of Discrimination:** For the tribal children, teaching-learning is not always friendly. The classrooms are not free from the **traditional social prejudice** against the tribal children.
- **Deficient 'free' education:** Government's failure in providing free education to tribal children is leading to provide an exploitative opportunity for private schools. They are primarily guided by commercial interests.
- The Right of Children to Free and Compulsory Education Act, 2009:
 - It provides for **re-admission** of every child, who discontinued elementary education for some reason, to a school in a class appropriate to his/her age, with the proviso of **special training or additional instruction** so that he/she is brought at par with others.
 - Its implementation generally and particularly in respect to the tribal child is a daunting task for the Government.
 - Putting a tribal child 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: 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-2007-08 data reveals that the tribal languages listed in the Eighth Schedule, viz., Bodo, Dogri and Santhali, are educationally used merely by 0.11 per cent, 0.02 per cent and 0.01 per cent of the tribals respectively.

- Residential Schools and the Tribals:
 - 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.
 - They are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls.
- Educational Domain and Knowledge on Tribes:
 - Ever since Nehru recognized tribal culture as an autonomous constituent of Indian culture, there has been effort, under the national democratic ethos, to know about the tribals and their problems.
 - 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.
- Contemporary Concerns in Tribal Education:

Incidence of High Dropout Rates: Dropout rates among the tribal students, particularly at the secondary and senior secondary stages, are very high (**Statistics of School Education, 2010-11** : 73 per cent at Class X, 84 per cent at Class XI and 86 per cent at Class XII).

 - **No-detention policy**, before and after the RTE Act, does not allow students from the tribal community to acquire basic skills in Three Rs (Reading, Writing and Arithmetic). This absence of background education is also a cause of dropouts.
 - **Long duration summer vacation** happens to be critical period for mass dropouts not only in tribal areas, but also in all rural areas. Vacations are also not aligned with local festivals.
- **Shortage of 'Quality' Teachers:** 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. Owing to paucity of trained teachers, learning achievement levels of tribal students remain low.
- **Language Barriers** for the Tribal Students: 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.
- **Education of Nomadic Tribes:** Nomadic tribes are constantly mobile depending on the climate, occupations and livelihood opportunities. Therefore, these children miss out on primary level schooling.

Recommendations

- The purpose of education anywhere, including in tribal areas, should be to provide children with an understanding of the environment and society in which they live and to endow them with the capability to earn a livelihood in the local society and, for those who have the desire and ability, in the national job market.
- There is a need for greater gender focus and social mobilization to encourage education of girls.
- **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.
- **The policy of no-detention** needs a review. When the student, teachers, or parents of the student request for retention of a child to enable him/her to acquire skills to move to the next class, he/she should be retained.
- To address the problem of low representation of the tribals in higher education, it is necessary to refurbish primary and secondary school education through special coaching.
- Keeping in view the difficulties of adjusting to a new cultural environment, teachers for schools in the tribal regions should be recruited locally.
- The State Governments should develop a policy for multilingual education, so that early learning is conducted in the local language.
- Inclusion of local culture, folklore and history in the curriculum can help in building confidence of tribal children and enhance the relevance of education in their lives.
- The Government needs to establish well-run residential schools such as **Jawahar Navodaya Vidyalayas** closer to the habitations (within a radius of ten kilometres) up to Class XII.
- In residential schools, which are often in the news for incidents of sexual abuse of students, strong mechanisms should be put in place to protect the students from abuse, neglect, exploitation and violence.
- Schemes like **Ashram School, Eklavya Model School and Kasturba Gandhi Balika Vidyalaya** should be promoted at large scale.
- **Involvement of community** in educational interventions through the **Panchayati Raj** Institutions needs to be institutionalized. Information on various schemes and benefits to beneficiaries should be provided to the Gram Sabhas and Gram Panchayats, which would create transparency and increase awareness about their entitlements.
- **The scope of education** needs to be expanded for the purpose of scholarships and should include tribal **painting, art, craft, song, music and dance** etc.
- **Regional Resource Centres** in States with significant tribal populations should be established to provide training, academic and other technical support for development of pedagogic tools and education materials catering to multilingual situation.
- It is recommended that a **Tribal Chair** be established by the UGC in **Universities in every State comprising Fifth Schedule Areas**.

5. Health

- **Sex Ratio:** The tribal population has shown favourable sex ratio 990 females per 1000 males as compared to 938 as general in the country (Census of India, 2011).
- **Fertility:** As per NFHS 3 (2005-06), the estimated Total Fertility Rate (TFR) among the Scheduled Tribe population was around 3.1 against estimate of 2.4 for the rest of the population.
- **Disease Patterns:** The Indian Council of Medical Research (ICMR), through its various national institutes and centers, collects data on some diseases in certain states and among some tribes.
 - Malnutrition – Low birth weight, under-nutrition of children, lower body size of adults, anaemia, iron and vitamin A and B deficiency.
 - Maternal and child health problems – higher IMR, U5MR, neonatal mortality, acute respiratory infections, and diarrhea.
 - Communicable diseases – malaria, filaria, tuberculosis, leprosy, skin infections, sexually transmitted diseases, HIV, typhoid, cholera, diarrheal diseases, hepatitis, and viral fevers.
 - Non-communicable illnesses – hypertension, stroke, diabetes, and cancers.
 - **Hereditary diseases** such as the Hemoglobinopathies (Sickle Cell) and G-6 PD deficiency.
 - Mental health problems – especially in the areas affected by conflicts.

Recommendations

- The first principle of any policy or program for tribal people is participation. Hence their views and priorities must get due place in any health care program. Committee suggests making use of three types of existing institutional mechanisms to improve the programs.
 - **Tribal Health Assembly:** From the Gram Sabhas at village level, upto the national level, Tribal Health Assemblies should be annually organized in which the people (at the level of village) or their representatives (at the higher levels) participate.
 - **Tribal Health Councils:** These should be constituted by including elected representatives, NGOs, experts and government officers for the purpose of planning and monitoring of programs.
 - Such councils should be constituted at the block or ITDP level, district, state and national level.
 - These should be empowered to shape the health plans and monitor implementation.
 - These sub-committees of Panchayat level, district level and Zilla Parishad could function as Tribal Health Councils.
 - **Tribes Advisory Councils** at the state level: These Councils should approve the health plans prepared by the Tribal Health Councils, and to review the performance of implementation.
- In view of the enormous diversity among nearly 700 tribes in India, the second principle to be followed is of area specific and tribe-sensitive local planning. The PESA provides an institutional basis for this.
- Building their capabilities to care for their health is the long term solution far superior to a perpetual dependence.
- To bridge the scientific knowledge gap of centuries, health care for Scheduled Areas should give paramount importance to spreading 'health literacy' by way of mass educational methods, folk media, modern media and school curriculum.
- Anganwadis should become the Primary Health Knowledge Centers.
- Instead of alienating or rejecting **Traditional healers and Dais**, a sensitive way of **including them** or getting their cooperation in health care, must be explored.
- The well-known **difficulties in deploying doctors, nurses and other technical personnel from outside** into Scheduled Areas have created the problem of human resources. **The candidates must be local, belong to Scheduled Tribes, be fluent in local tribal dialects**, be selected on merit and should be committed to serve in the local Scheduled Area for at least ten years.

- **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 the 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.

6. Land Alienation, Displacement and Enforced Migration

- Tribal communities of India reside in hill areas that are rich in minerals and forest cover. Land is the basis of their socio-cultural and religious identity, livelihood and their very existence.
- Traditionally, ownership of land was by the community and economic activity mainly agrarian, including shifting cultivation, which fostered egalitarian values which influenced their power relations and organizational system.
- It is in this context that the **devastation of lives of tribal people** caused by **loss of access** to forest and **involuntary displacement** from their land has to be understood.
- **Indian Forest Act, 1865 (amended 1878, 1927)** for acquisition of forest lands for creation of infrastructure such as railways, accorded the State a monopolised control over forest lands for commercialization purpose.
 - Even after independence, under its provision **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.**
- **The Development model** in 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.

- Despite 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.
- **The ways in which tribal land alienation take place:**
 - **Schedule V** of the Constitution lays down provisions for protection of land, and welfare and advancement of Scheduled Tribes.
 - **Sixth Schedule of the Constitution:** 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.
 - Forest rights of tribal people were discontinued 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.
 - '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'.

Recommendations

- Serious effort is required by the State to minimize displacement. There should be a rights- based approach to comprehensive rehabilitation.
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is progressive in the sense. However, the definition of 'public purpose' in the new law is very wide and will only lead to greater acquisition and displacement in Scheduled Areas.
- Public-Private Partnership mode of acquiring land is simply a backdoor method of alienating land.
- 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 be legally mandated to return such land to the original landowner/successors or use the same for resettlement of displaced tribals.
- Land and water sources polluted by industrial and mining projects in tribal regions require attention and the onus for taking corrective measures.
- There is considerable emphasis on consultation and consent of Gram Sabhas. It is essential that the State be vigilant through adequate 304 monitoring mechanisms for ensuring that consent is obtained freely.

- Tribal people who have been displaced by conflict in Chhattisgarh and the Northeast should be rehabilitated by the State Government in their villages and provided facilities of housing, safe drinking water, health and education, skill development, electricity supply, irrigation facilities, and agricultural inputs.
- In pursuance of the PESA, 1996, Land Transfer Regulations/Tenancy laws of all Schedule V Areas should be suitably amended to ensure Gram Sabha participation in the identification, investigation and restoration of lands to tribal people.

7. Legal and Constitutional Issues

Forest Rights Act 2006

- **The Indian Forest Act, 1927** and its predecessor Act of 1878 vested control over the forest resources in the state. Forest area covers 23 percent of land mass and over the years, forest communities have been treated as encroachers and their activities in forest areas as ‘forest offences’.
- The enactment of the 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.
- The FRA stipulates that forest-dwelling Scheduled Tribes and Other Traditional Forest Dwellers (OTFDs) 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. **Forest Rights Committee (FRC)** at the grassroots level found that this provision of the Act has been violated.

Panchayats (Extension to Scheduled Areas) Act 1996

- Gram Sabhas consultations have to be merely ‘considered’ by government officials when deciding land acquisition proposals.
- **Forged and manipulated Gram Sabha resolutions**, lack of consent before land acquisition and other grave issues still persist in the implementation of the PESA.

Particularly Vulnerable Tribal Groups (PVTGs)

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**.

Use of criminal law in tribal areas

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**.

Salwa Judum

Salwa Judum, translated variously as peace march, or as purification 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.

Niyamgiri experience

- Niyamgiri hills are inhabited by the Dongria Khond, a Particularly Vulnerable Tribal Group. The Dongria Khonds opposed the mining of bauxite by Vedanta Aluminium Ltd., the Supreme Court directed, on 18th April, 2013, that the Gram Sabha needed to consider the rights that were being affected by the proposed mining.
- The proposed mining was unequivocally rejected by all Gram Sabhas.

Matters of migration and exploitative labour

There has been a significant increase in urban tribal population, during 2001-11, which is a pointer to their 'push' migration resulting in exploitation as bonded labour.

Recommendations

- 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 past twenty years have been dramatic in the changes in the economy in terms of liberalisation & privatisation, and in the effect that economic policy has had on tribal communities. PESA Act, 1996 and the Forest Rights Act, 2006, have been enacted which recognize autonomy and rights of tribal communities.
- The implementation of these laws is, however, reluctant. There is needed to strengthen the institutional system to support the process of implementation, including strengthening of the Gram Sabhas.
- Given the close relationship between forests, forest produce and women's lives, representation of women in Gram Sabha as per FRA Act must be implemented.

- Government officials who were the agencies to prevent tribal loss of land are increasingly being seen to be negotiators on behalf of project authorities. This must be stopped.
- There have been recorded cases of Gram Sabha consent being fraudulently obtained or forged; such conduct must face penalties, and projects that proceed on the basis of consent so obtained cannot be allowed to proceed.
- Article 243-ZC of Constitution; provide provision for the creation of new Nagar Palikas in Fifth Schedule areas and tribal areas. Implementation must be preceded by a law made by Parliament, which sets out the exceptions and modifications to suit local conditions of tribal area.
- The amendments proposed to PESA with prior informed consent, is necessary for the effective implementation of PESA.
- With proliferation of MoUs between states and companies that imposes responsibility on the state to facilitate environmental and forest clearances, it takes away the neutrality of the state. Such MoUs must be to be reviewed.
- Public policy and practice must be drafted base on the experience of Niyamgiri, and the adverse lessons from the Salwa Judum.
- The criminal law is being used as a tool of the state to suppress dissent. Judicial Commission needs to be appointed to investigate cases filed against tribals and their supporters. Only, this will satisfy the concerns that have risen about the misuse of criminal law by the state.
- **De-notified Tribes** have been asking that steps be taken to remove stigma and prejudice from their lives. Criminal Tribes Act of 1871 was repealed in 1952 and the Habitual Offenders Act was enacted in its place. Tribes continue to be stigmatised under the Habitual Offenders. Habitual Offenders Act must be repealed and rehabilitate the de-notified and nomadic tribes.
- **Anti-beggary laws** render the talents that they possess, such as juggling and acrobatics, into punishable conduct. Whole communities of women find themselves in prostitution without a choice. Such laws must be repealed.
- The persistence of bonded labour, and the trafficking, in large measure, of women from tribal areas needs a concerted effort to end it.

8. Delivery of Public Goods and Services

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.

- However, these could not fully serve the interests of the tribal people, as there were **several schemes that were broad in nature.**
- During the Fifth Five Year Plan (1974-79), the strategy of the Tribal Sub Plan (TSP) was adopted.

- As per guidelines issued by the Planning Commission, the Tribal Sub Plan funds were to be non-divertible and non-lapsable. But, most of the funds meant for TSP had been diverted to other sectors and purposes, and some of them had also been lapsed due to their improper utilization or failure of administrative machinery.
- As per the Sub-Plan approach, the Central Government is required to ensure that out of its total Plan budget, at least 8.6 percent (as per 2011 Census) is earmarked for the development of Scheduled Tribes in the Union Budget.
- But, the decline in the budget allocations for Tribal Sub-Plan (TSP) in proportion to the Scheduled Tribe population is a cause for serious concern.
- **Schedule Tribes who migrate** from rural areas to urban areas suffer **loss of identity, community solidarity, land, entitlements such as ration cards**, and common resources.

Recommendations

- There is dispersed population of tribes and displaced population (due to infrastructure projects, conflicts) in some States, including the North-eastern region, there is no agency dedicated to deliver the programs. New micro-agencies need to be created in such pockets to cater to specific tribal groups.
- Absence of supporting staff for implementing the MGNREGA and FRA has resulted in low absorption of funds available for supervision of these works.
- Many tribes have migrated to urban areas and are wage-earners. It is imperative that States work towards the creation of micro projects in urban areas which have substantial ST population.
- Most Tribal Research Institutions (TRIs) are facing financial and manpower constraints and are finding it difficult to perform their functions effectively. There is an urgent need for strengthening and broadening research and training activities by these institutions.
- The Anthropological Survey of India (AnSI) is one of the many organizations under the Ministry of Culture. However, the primary focus of AnSI is study of tribes. AnSI can become a stronger organization if it comes under Ministry of Tribal Affairs.
- Funds available to the Ministry of Tribal Affairs for giving grants to States under Article 275 (1) of the Constitution should be substantially enhanced so as to enable the Ministry to provide larger support to the States for strengthening of institutions and up-gradation of administration in tribal areas.

To summarize, tribal communities face disregard for their values and culture, breach of protective legislations, serious material and social deprivation, and aggressive resource alienation. Hence, the solution to these issues should enable the tribes to protect their own interests.

- **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.
- 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
- 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 a dynamic living culture.