

TECHNICAL ADVISORY GROUP

formulating the Recommendations to Government of India in fulfillment of the obligations placed on the Technical Advisory Group.

The Report and Recommendations are being presented here in two parts :

Part One: containing the entire set of suggestions received from Members of TAG, suggestions emerging from various former reports, judgements and responses by the Ministry of Social Justice and Empowerment to petitions, as well as texts of various Criminal Tribes Acts enacted during the colonial times. In addition it contains official documents produced by Government authorities that perpetuate the stigma attached to the Denotified communities and deepen the stereotyping of which these communities have been the unfortunate victim. This Part of the Report also contains the 'Foreword' and the entire text of the final recommendations providing a road-map for the long term development of the Denotified, Nomadic and Semi-nomadic Communities and Tribes.

Part Two: containing the 'Foreword' and the 'Recommendations'.

1.12 Members of the Technical Advisory Group would like to place on record their sense of satisfaction in being able to fulfill the obligations placed upon them by the Government of India within the specified time limit. TAG feels happy that the formulations offered as 'Recommendations' are unanimously approved by all members of the Group. The process of Notification of innocent communities traders, itinerant entertainers, peasants and disbanded soldiers, begun in 1871 through enactment of the Criminal Tribes Act, should have come to an end soon after Independence. Instead, a Habitual Offenders Act was slapped on them, and their sufferings continued through the last six decades. This entire episode of turning innocent and defenseless communities into vulnerable and victimized groups has been a chapter of shame in India's social history. During the last twenty years, there has been a strong movement shaping up from the grass-roots, which has sought to restore dignity and human rights to these communities. It is a gratifying thought that the Prime Minister of India took a special interest in the issue and the Government decided to invite the Technical Advisory Group to offer its opinion on the aspirations of the Denotified, Nomadic and Semi-nomadic Tribes and Communities, and the ways in which these aspirations need to reflect in law, the rights-discourse and

welfare measures. Members of TAG would like to place on record their deep sense of appreciation for the Government's measure of initiating official thinking on this long-standing issue.

20 November 2006
New Delhi

Recommendations of the Technical Advisory Group 2006

A. Definition of Denotified Tribes

- i. Just as there is a Schedule for Tribes and a Schedule for Castes, no specific Schedule for Denotified Tribes – that is, the communities notified under a series of Criminal Tribes Acts during the colonial period—was formed. Some of them have come to be placed as Scheduled Tribes, some as Scheduled Castes, some others as OBCs, and a few of them excluded from all of these.
- ii. For the purpose of formulating a clear definition of the Denotified Tribes of India, all communities or segments of communities, that had been placed under the Criminal Tribes Acts, beginning with CTA 1871, in any part of colonial India, till their denotification in the 1950s, are to be considered as Denotified Tribes throughout the Union of India irrespective of their present geographical location.
- iii. The most authentic list of Denotified Tribes was presented in the Report of Aiyengar Committee (constituted by R. N. 22/1/49—Police-I, Dt. 28.9.49) prepared for the Union Government (List reproduced on pages 257 to 262). Over and above the communities or tribes listed in the Aiyengar Committee Report, all other tribes or communities, whose denotification preceded the date of appointment of the Aiyengar Committee, are to be considered as Denotified Tribes.

A1. Definition of Nomadic and Semi-nomadic Tribes

- i. There has not been any clear definition of Nomadic Tribes, or Semi-nomadic Tribes in existence used for official purposes of the Government of India.

The only reliable list of Nomadic Tribes compiled so far can be sourced from the 1931 Census of India.

RECOMMENDATIONS OF THE TECHNICAL ADVISORY GROUP 2006

- ii. All Tribes and Communities included in the 1931 Census as Nomadic or Semi-nomadic are to be treated for the purposes of the Government of India as Nomadic Tribes. Any Nomadic Tribe or Semi-nomadic Tribe recognized in any state of India, or a Union Territory as such, is to be recognized uniformly as Nomadic Tribes throughout the Union of India, for the purpose of the Government of India.
- iii. As and when the future Census enumeration brings to notice any other such communities showing livelihood patterns that are nomadic or semi nomadic, the communities in point be considered through a proper scrutiny for inclusion in the category of Nomadic Tribes.

Official Listing and Placement of Denotified, Nomadic and Semi-nomadic Tribes

- i. Any tribe or community falling within the definition of Denotified Tribes, and recognized as a Scheduled Tribe in one or more state/states, is to be recognized as Scheduled Tribe for the purpose of the Government of India.
- ii. Any tribe or community falling within the definition of Denotified Tribes, and recognized as a scheduled Caste in one or more state/states, is to be recognized as Scheduled Caste throughout the Republic for the purpose of the Government of India.
- iii. Any tribe or community falling within the definition of Denotified Tribes, and is recognized variously as a Scheduled Tribe as well as Schedule Caste in different states, is to be recognized as Scheduled Tribe uniformly throughout the Republic for the purpose of the Government of India.
- iv. Any tribe or community that falls within the list of Denotified Tribes as per the definition of Denotified Tribes given in this report, and not included in either the schedule of tribes or the schedule of castes, is to be included either in the schedule of

TECHNICAL ADVISORY GROUP

- v. Any Tribe or Community or Group recognized in any part, State or Union Territory of India as Nomadic or Semi-nomadic, is to be recognized uniformly throughout the Union of India, for the purpose of the Government of India, as Nomadic Tribe.
- vi. Any Nomadic or Semi nomadic tribe or community that falls within the definition of Nomadic Tribe as given in this report, and recognized as a Scheduled Tribe in one or more state/states, is to be recognized as Scheduled Tribe for purpose of the Government of India.
- vii. Any Nomadic or Semi nomadic tribe or community that falls within the definition of Nomadic Tribes given in this report, and recognized as a scheduled Caste in one or more state/states, is to be recognized as Scheduled Caste throughout the Republic for the purpose of the Government of India.
- viii. Any Nomadic or Semi nomadic tribe or community that falls within the definition of Nomadic Tribes given in this report, and recognized variously as a Scheduled Tribe as well as Schedule Caste in different states, is to be recognized as Scheduled Tribe uniformly throughout the Republic for the purpose of the Government of India.
- ix. Any Nomadic or Semi nomadic tribe or community that falls within the list of Nomadic tribes as defined in this report, and not included in either the schedule of tribes or the schedule of castes, is to be included either in the schedule of tribes or the schedule of castes by the Government of India on the basis of the merit of the case.
- x. A separate Schedule for Denotified, Nomadic and Semi-nomadic

RECOMMENDATIONS OF THE TECHNICAL ADVISORY GROUP 2006

- b. For redressal of the stigma of criminality;
- c. For facilitating inter-ministerial coordination in dealing with these Tribes and Communities.

A3. Ministerial Allocations

For Administrative purposes,

- i. The Denotified and Nomadic communities listed in the Scheduled of Tribes are to be placed under the Ministry of Tribal Affairs.
- ii. The Denotified and Nomadic communities listed in the Schedule of Castes are to be placed under the Ministry of Social Justice and Empowerment.
- iii. All other Nomadic tribes and communities are to be placed under the Ministry of Social Justice and Empowerment.

TECHNICAL ADVISORY GROUP

B. Rights, Entitlements and Protective Mechanisms

- i. The Habitual Offenders Act, if it is in force in any Indian State, may be abolished forthwith.

RECOMMENDATIONS OF THE TECHNICAL ADVISORY GROUP 2006

- vii. A listing of such vulnerable communities who need to be 'protected' from the police may be undertaken and special protection given to them against police reprisals and atrocities.
- viii. Besides training of the senior officials of the Police Department for dealing with the problems of DNTs in a humane and considerate manner, there is a need for special training of the subordinate staff made mandatory especially since the interface of the DNTs is with Head Constables PSI, and PIs.
- ix. Police can be involved in the development and welfare programmes for these groups to give them a first-hand understanding of the vulnerability rather than their 'criminality'. However, this involvement is intended for their education as a part of their curriculum at the Police Academy, and not for the police personnel in positions of authority.
- x. Women of DNTs and NTs are especially vulnerable as it is noticed that men of other communities, especially those of the police force, try to sexually harass them. In case DNT men try to protect their women against such harassment, their DNT status is constantly used to get them beaten, jailed, or even killed in retaliation. A Special Cell in the proposed Vimukta Janajati Commission should be established, so that women of the DNTs and NTs come forward and complain cases of sexual harassment.
- xi. More than a mere thumb impression on any legal document (in case of police complaint, or as a witness, etc.) may be made mandatory from the illiterate members of these communities in place of signature. It has been frequently found that such an impression can be taken by force. Some measure is necessary, like a witness testifying that the signatory indeed understood and voluntarily agreed with what was being thumb printed.
- xii. In the case of DNTs and NTs, it would be necessary to protect them from harassment on mere suspicion. A suitable revision should be made in the Criminal Procedure Code to prevent such harassment.
- xiii. A massive information campaign may be launched to sensitize the public about problems faced by the Denotified and Nomadic Tribes, and the stigma of criminality.

TECHNICAL ADVISORY GROUP

- xiv. The Prevention of Atrocities Act, which is currently applicable to Scheduled Castes and Scheduled Tribes, may be extended to Denotified Nomadic and Semi nomadic tribes.
- xv. An Act named 'DNTs and NTs(Prevention of Atrocities) Act' may be enacted with a view to providing for exclusive special court of sessions with judges, investigation officers and public prosecutors. The proposed Act should include social and economic boycott and blackmail as substantive crimes of atrocity.
- xvi. Further, the proposed Act should be extended to take into account atrocities caused by policemen and state officials as well to give a positive signal to the members of the society who harass these communities.
- xvii. There is also a need to include under the proposed Atrocities Act the harassment caused to these communities by misuse of the Goonda Act and the Anti-beggary Act. It has been found that a majority of the hapless individuals booked under these acts belong to the DNTs, NTs and SNTs.
- xviii. Since the livelihood of these communities is not ensured by the state, it may be considered an Atrocity to book persons of these communities under the laws for conservation and for animal protection. Communities like Saperas and Madaris who work with animals, or communities who continue to depend on forests for a living, may be exempt from these laws till alternative economic rehabilitation is ensured. This may be done on a case to case basis.
- xix. A pernicious interpretation of what is a 'traditional' occupation may be avoided when protection to traditional livelihoods of communities is sought. Being forced by the men folk of the

RECOMMENDATIONS OF THE TECHNICAL ADVISORY GROUP 2006

- xx. The Act to Prevent Atrocity Against DNTs and NTs, proposed in B-xv may have a component of monetary compensation in instances of atrocity caused by the police and others, and which may be paid by the State to the families of persons suffering loss of life or livelihood due to such atrocity.
- xxi. As a way of some moral 'compensation' to the community as a whole, the government may install at some selected locations having a substantial DNT population, memorials on the lines of war memorials. These will be symbolic of public admission of the historical and collective injustice caused to these people for a century and a half. These memorials will also serve the purpose of reminding the public of the collective responsibility of the state and the society to ensure that the atrocities are not perpetrated again.

B1. Non-displacement Guarantee, Compensation Norms

- i. Adequate Compensation in the form of land is to be given to the Denotified and Nomadic Tribes wherever they are displaced due



NEXT
PAGE