

National Human Rights Commission
PRP&P Division (RU-3)

MINUTES OF MEETING

Open House Discussion on “*Protection of Nomadic, Semi Nomadic and De-Notified Tribes in India and forward trajectory*” held on 19th January, 2024 at Manav Adhikar Bhawan, NHRC,
New Delhi

An Open House Discussion was organized on ‘Protection of Nomadic, Semi Nomadic and De-Notified Tribes’ under the Chairmanship of Dr. Dnyaneshwar Manohar Mulay, Hon’ble Member, on 19th January, 2024 in Room No. 207-208. The list of participants in **annexed**.

Shri Devendra Kumar Nim, Joint Secretary, NHRC, welcomed the chair of the event, senior officials of NHRC, domain experts and eminent dignitaries that participated in the meeting. Shedding light on the relevance of the agenda, he expressed that these communities have a longstanding history of neglect and discrimination, and they have historically faced deep rooted prejudice and systemic discrimination that has placed them at a disadvantageous position. He exclaimed that the De-Notified, Nomadic and Semi-Nomadic Tribes are the most neglected, marginalized and economically and socially deprived communities. These communities differ greatly on the scale of deprivation. He further added that one of the most pressing issues is the lack of citizenship documents which makes their identity invisible and causes hindrances in availing government benefits, constitutional and other basic rights.

Dr. Dnyaneshwar Manohar Mulay, Hon’ble Member, NHRC during his inaugural address said that despite 75 years of independence, the De-notified, Nomadic and Semi-Nomadic Tribes have faced neglect. It is probably for the first time that a consultation for the issues of DNTs, SNTs and NTs has been organized at the NHRC. He added that the objective of the Protection of Human Rights Act, 1993 (PHRA) was to protect the Human Rights and fundamental rights of the

vulnerable classes or communities of our society. These Human Rights include right to life, liberty, equality and dignity. Taking note of the irony in the fact that India is doing quite well on the economic front while having communities who are struggling for basic rights, he said that a lot of work has been done but a lot of work needs to be done to ensure there is equality in its true sense and no individual is deprived of his/her fundamental rights. He added that many states have made certain provisions for such communities however the problem needs to be addressed centrally. He further added that their traditional means of earning livelihood are no longer available to them, there is no provision of education, health services or housing and they are constantly stigmatized as criminal tribes consequently facing countless problems. He said that this discussion is the first step towards resolving their issues and also initiating suggestions including the repeal of the Habitual Offenders Act that ensures that the stigma continues in new forms.

Presentations

Shri Anil Kumar Patil, Director, MoSJE informed that in 2014-15, the National Commission for DNTs was set under the chairmanship of Shri Idate and in 2018, the Commission forwarded its report. One of the recommendations of this report was to set up a mechanism that can look after the welfare of these communities and work for formulation of policies for them. Accordingly in 2019, a board i.e., ‘Development and Welfare Board for DNTs, SNTs and NTs’ was constituted. This board is still functioning and has 5 non-official members, 3 official members and a chairperson. He further added that the board is responsible for formulating the policies for the welfare of the DNTs, SNTs and NTs. He further added the board formulated a policy in the name Scheme for Economic Empowerment of DNTs (SEE) which was launched in 2022. This scheme primarily comprises of four components including housing by providing them financial assistance, education by way of scheme that provides free coaching, health by providing health insurance in association with National Health Authority and livelihood by encouraging them to take up constructive economic activities through self help groups. An online portal has been made for implementation of this scheme. He mentioned that one of the major issues that the ministry is facing in implementing this scheme is the issuance of caste certificates of DNTs by various states since most of the communities are recognized under either SC/ST or OBCs which results in deprivation of the communities and difficulties in obtaining benefits. He

further added that the ministry conducts regional conferences on the issues faced by this community regularly. In 2022 alone, it organized five such conferences. He added that there is a need for community leaders who would assist the government in effective implementation of schemes for the community and to identify other issuers and challenges faced by them.

Dr Sasi Kumar, Joint Director, Anthropological Survey of India, Ministry of Culture mentioned that in 2017 the Idate Committee report was submitted and in that report, there were two generic observations. Firstly, there exists a lack of basic information on most of these communities and secondly, most of these communities are becoming invisible. He mentioned that ASI undertook to carry out an anthropological study of DNT community based on these observations. He added that during this, NITI Ayog and Ministry of Social Justice and Empowerment also approached ASI for the study. In 2022-23, ASI completed a study of about 300 DNT communities all over the country which have not been included in any of the constitutional categories like SC/ST or OBCs. Out of these communities, 55 could not be found on the field, hence the conclusion that they are becoming invisible with every passing day. It was also found that their means of livelihood included acrobat, snake charming, monkey playing and the like. He further added that the major problem faced by the community is related to their identities, which includes issuance of identity cards or documents and also propensity of the community to be invisible because of the stigma associated to them. This also results in members of communities changing their names so as to be included in the constitutional lists. Another major concern associated with the community is the alienation from their livelihood resources.

Technical Session – 1

Agenda: To identify challenges faced by the NTs, SNTs and DNTs owing to the stigma imposed by the enactment of Criminal Tribes Act, 1872 and later by Habitual Offenders Act, 1952 and figure out a way to modify discriminatory provisions of the latter.

Smt. Rupali Shirke, Community Lead, Anubhuti Charitable Trust briefly mentioned the work Anubhuti has been doing for DNTs, SNTs and NTs and then played a video of **Smt. Deepa Pawar, Founder Director, Anubhuti Charitable Trust**. Explaining the history of DNT, SNT and NT communities, she mentioned that these communities, who have been conventionally

dependent on natural resources for their livelihood, could not claim their stake in the environment. This resulted in direct impact on their social security, access to resources, livelihoods, food rights, culture and identity. She then suggested that keeping environmental justice in mind, a commitment for environmental culture needs to be prioritized. There should be discussions on the subject to resolve the concerns of environmental justice for environmental justice isn't just limited to global scenario but is equally relevant at the local levels.

Shri Ravindra Kumar Singh, National President, All India Denotified & Nomadic Tribes Welfare Sangh mentioned that the stigma of being criminal tribes imposed by the Criminal Tribes Act and subsequently by the Habitual Offenders Act has led to deprivation of the DNT, SNT and NT communities. He added that many members of such communities are languishing in prisons despite being innocent without any recourse mechanism. He suggested that Habitual Offenders Act, 1952 should be repealed from all the states and be replaced by a strict legislation to punish the offences of discrimination and defamation, both slander and libel, meted against members of such communities. He further suggested that representation of such communities should be ensured in police stations, at least until no legislation is enacted for their protection. Additionally, he suggested that a cell for DNTs, SNTs and NTs should be established in NHRC and social workers and activists should be involved in that cell.

Shri Mohit Tanwar, State President of Chattisgarh, Denotified, Nomadic Tribes Development Council (All India) stated that past injustices against the DNT, SNT and NT communities have placed them at a disadvantageous position, be it socially or economically. He mentioned that the British enacted Criminal Tribes Act, 1872 against freedom fighters to restrain them from any indulgence in the struggle for independence and by enacting Habitual Offenders Act, 1952 post independence, we have failed to provide them the respect that was due to them for being true patriots. They have been facing hostile discrimination since the enactment of Habitual Offenders Act, 1952. He further added that inclusion of certain DNT, SNT and NT communities under SC, ST or OBC has led to ineffective policy implementation or non formulation of policies altogether. He stressed that it has been five years of Idate Committee Report and yet the recommendations of the said report haven't been tabled for implementation. He further suggested that there should be a designated Commission for DNT, SNT and NTs,

DNT cells should be established in every state, policies should be formulated for them and most importantly, recommendations of Idate Committee Report should be implemented.

Dr. B.K. Lodhi, Former Dy. Secretary & Director (Research), National Denotified & Nomadic Tribes Commission mentioned that the Idate Committee report recognized 1257 communities as DNTs, NTs and SNTs all across the country. He then mentioned that with the repeal of Criminal Tribes Act, the legal stigma associated with the community got eliminated however, the social stigma remained intact. Mentioning the contributions of the members of these communities, he stated that these tribes were criminals in the eyes of British since they were engaged in the struggle for freedom. One of the major issues faced by this community is that of amalgamation of such tribes within SC/ST/OBC and thus depriving them of their identities. This amalgamation is also not sound since SC/ST and OBCs are better off as compared to the DNT/SNT and NT communities. He suggested that caste certificates must be issued to the communities.

Adv. Vinda Mahajan, Expert Legal Consultant, ECONET, Pune, mentioned that when the fundamental rights of the community is violated and the same is reported, no action is taken by the state or there is an intentional inaction on the part of the state. She then recommended that a research study should be carried out to ascertain whether the due process of law with regards to the rights of these communities is being complied with and if not, what efforts can be made to ensure the same.

Smt Vaishali Bhandwalkar, Nirman India mentioned that it is essential to abolish Habitual Offenders Act. She further suggested that instead of amalgamation under SC/ST and protection under the Prevention of Atrocities Act, a new legislation should be enacted for the protection of DNT, SNT and NT communities at the central level embracing provisions for protection against discrimination on the basis of the stigma of being criminal tribes or for any other reason. She added that according to a study conducted by Nirman India, it was found that members of these communities face custodial violence, land and housing related conflict, denial of access to places of worship or other public places and the like and then suggested that a comprehensive study should be undertaken by NHRC, India to study the issues in detail, especially in prisons. She also suggested that the Crime in India report released annually by NCRB should also detail statistical data for violence against the DNT, SNT and NT communities along with data for SC/ST and

OBC. She further suggested that specialized cells should be created for the communities, efforts should be made to create awareness and to sensitize the public through massive campaigns, and health facilities should be ensured, especially for women and children including immunization among many others.

Dr. Rashwet Shrinkhal, Assistant Professor, Baba Bhimrao Ambedkar Central University, Lucknow suggested that there should be recognition of distinctiveness of a particularly marginalized group/community is the first step towards realization of human rights. He added that NHRC's role in organizing such a thought provoking conferences on Nomadic, Semi Nomadic and De-Notified Tribes is way forward in the right direction. He further said that since, previously several committees have recommended repeal of the Habitual offenders Act without much success in that direction, it is recommended to amend the provision where District Magistrate is the principal quasi-judicial authority for adjudication in the Act. Instead of DM alone there should be a panel/board which may include two members apart from DM, one member as a representative of the community and one esteemed member from the Bar. Both additional members may be nominated by the Principal District Judge. He then suggested that the provisions for exemplary compensation in case of false prosecution to the accused of the DNT, SNT and NT community should be made. He also recommended the establishment of 'Vimukt Nyay Board' at the District levels.

Technical Session -2

Agenda: To discern hurdles endured by the communities in availing basic facilities such as education, employment, health care, legal documents, among others.

Dr. Muniraju SB, Deputy Advisor, SJE/VAC, NITI Ayog mentioned the historical background of the marginalization of these tribal communities and suggested that though there is no specific reservation for them, they can be brought under the Economically Weaker Sections (EWS) category so that they can avail the benefits. He then suggested that residential schools should be established for these communities similar to Eklavya Model Residential Schools. He also suggested that specific and exclusive policies should be formulated for these communities

for education, health, livelihood and the like. He further mentioned that advocacy and sensitization of the community members about their rights plays a key role in upliftment of these groups. These communities can also be classified as pastoral communities and pastoral corridors can be developed similar to the industrial corridors to provide basic amenities, grazing facilities, drinking water facilities and the like. He further added that NITI Ayog will come up with a PM DNT, SNT and NT mission which will be on similar lines with PM PVTG mission to ensure educational, economic, social and overall development of these communities.

Shri Anil Devidas Phad, National General Secretary, De-Notified Nomadic Tribes Development Council mentioned that many efforts have been made by the government post 2014 which include Nanaji Deshmukh Scheme of Construction of Hostels for DNT Boys and Girls, Dr. Ambedkar Pre-Matric and Post-Matric Scholarship for DNTs and Indian Overseas Scholarship that included DNTs. He further added that there is no beneficiary of the SEE (Scheme for Economic Empowerment of DNTs) of 2022 and these communities still lack basic facilities such as health, education, employment or means of livelihood and the like.

Shri Vijay Raghavan, Professor, TISS, Mumbai Campus, Centre for Criminology and Justice, School of Social Work mentioned that NT, DNTs can be broadly classified into five or six categories based on their conventional means of livelihood including pastoral nomads; fighters, soldiers or security guards; hunters and medicine men; fortune telling; singers, entertainers or acrobats; and traders and craftsmen. He added that CTA was passed considering the mobility, invisibility and inherent criminality of DNTs, SNTs and NTs for the British and Habitual Offenders Act passed by the State governments inherited those provisions without giving the genesis of the former Act a considerable thought. He then suggested that the state governments have to be asked to repeal the Habitual Offenders Act and the practice of having informal discussions about the criminal nature of these tribes in police academies need to be looked into. He added that their conventional means of livelihood are no longer available to them owing to modernization, anti beggary laws and legislations protecting forests and wildlife. This has a direct impact on their livelihood, children are forced to drop out of schools, they are unable to avail the benefits of legal aid system if detained, and often victims of atrocities and mob lynching. In order to resolve these issues, he suggested that NHRC should write to the state governments to repeal the Habitual Offenders Act, it should also write to state governments to

repeal beggary laws or strike down the provisions of the Act that have criminalization aspect, NHRC should write to the NALSA for creation of DNT Legal Aid cells within the DLSA structure, provide home stay plots for DNTs with joint ownership of both the spouses, the state government or the district collector office can hold local camps in every state to provide IDs and residence proof documents including caste certificates, caste certificates should recognize oral histories like the Forest Rights Act and a notification or regulation should be passed by the government in this regard, training curriculums of police academies that talk about criminal methods or criminal past of these communities need to be revised and instead their historical past should be made a part of the curriculum and trainees should be taken on field visits, there should be a specific policy for education of children belonging to these communities and there should be a provision for bridge classes to make up for loss of education either due to nomadic nature of these tribes or drop out of children, livelihood generation needs to be done by exploring their traditional skills and preserving them by modernization or innovation and lastly, these communities need to be included in census and NCRB data as a separate category.

Shri Dinanath Waghmare, President, Sangharsh Vahini mentioned that child labour and lack of education are major issues faced by these tribes and suggested that specific provisions should be made for these communities and Ashram Schools should be established for them as well.

Dr. B. Mishra, President, Association of Voluntary Agencies for Rural Development (AVARD) suggested that members of these communities should have a permanent address and they should be permanently settled, representation from these communities is essential, these communities should be organized into a cohesive group and be provided with means of livelihood. He added that the focus of policies should be on women and children as they are the worst sufferers.

Technical Session -3

Agenda: To suggest measures to mitigate all the challenges so uncovered, ensure representation of de-notified tribes in parliament, government institutions and higher education, and determine a way to proceed, especially for women and children.

Shri Konthang Touthang, Joint Secretary, National Commission for Scheduled Tribes mentioned that NCST has taken a few steps for the communities following a proposal by Ministry of Social Justice. These include provision of good quality coaching for about 6,250 students belonging to these communities, provision of health insurance to DNT, SNT and NT community every year for 4,36,363 identified families, provision of facilities for livelihood and 1,970 livelihood initiatives have been proposed, and provision of financial assistance for construction of houses to members of these communities that covers 4,165 families. These proposals have been accepted by the NCST.

Shri Balak Ram Baria, National General Secretary, All India Denotified & Nomadic Tribes Welfare Sangh suggested that their representation in local and state level governing bodies can be ensured by including them in the process of policy formulation for the communities and ensuring that quality education is provided to them. He added that the sufferings of women belonging to these communities are manifold since they are even more vulnerable owing to the nomadic nature of these tribes. He also said that children also suffer due to lack of education and health. He then suggested that a pilot plan should be implemented especially for women and children belonging to these communities for their holistic development. He added that a lot of communities have not been included in any of the constitutional lists because of which they do not have any identity documents making their admissions in schools difficult and thus suggested that the problem of identification also needs to be resolved.

Shri Satish Sharma, CEO, Desi Sangrah Private Limited mentioned that their institution is working for better education, livelihood, health conditions including mental health and other factors that have a direct bearing on their social and economical upliftment.

Smt Vijaya Bharathi Sayani, Hon'ble Member, NHRC in her concluding remarks mentioned that there are nearly 200 DNT communities across India nearing around 14 crores in number. These people have been facing exploitation since the British regime. It is thus important to ensure their betterment. Acknowledging all the suggestions that came out as a result of the discussion, she suggested that the historical past of these communities need to form part of school curriculum.

Dr. Dnyaneshwar Manaothar Mulay, Hon'ble Member, NHRC then requested the audience to present their suggestions if they had something to add.

The suggestions that were made include:

- NHRC should send the recommendations emanated in the meeting to the government.
- The inspection agencies under Habitual Offenders Act should have a representative from these communities to ensure that the provisions of the Act aren't being misused or abused.

Dr. D.M. Mulay, Hon'ble Member, NHRC then concluded the meeting by assuring the gathering that all the recommendations emanated from the discussion will be sent to the relevant stakeholders and their regular follow up will also be ensured. He added that this marks the first step out of many that will follow this discussion.

LIST OF PARTICIPANTS

Participants from NHRC, India

1. Hon'ble Member, Dr. Dnyaneshwar Manohar Mulay
2. Hon'ble Member, Shri Rajiv Jain
3. Hon'ble Member, Smt. Vijaya Bharathi Sayani
4. Joint Secretary, Shri Devendra Kumar Nim
5. Joint Secretary, Smt. Anita Sinha
6. Consultant Research, Dr. Kanaklata Yadav
7. Consultant Research, Dr. Rajul Raikwar
8. Junior Research Consultant, Ms. Arpita Sinha

Panelists

1. Shri Anil Kumar Patil, Director, MoSJE
2. Dr Sasi Kumar, Joint Director, Anthropological Survey of India, Ministry of Culture
3. Smt. Rupali Shirke, Community Lead, Anubhuti Charitable Trust
4. Smt. Deepa Pawar, Founder Director, Anubhuti Charitable Trust
5. Shri Ravindra Kumar Singh, National President, All India Denotified & Nomadic Tribes Welfare Sangh
6. Shri Mohit Tanwar, State President of Chattisgarh, Denotified, Nomadic Tribes Development Council (All India)
7. Dr. B.K. Lodhi, Former Dy. Secretary & Director (Research), National Denotified & Nomadic Tribes Commission
8. Adv. Vinda Mahajan, Expert Legal Consultant, ECONET, Pune
9. Smt Vaishali Bhandwalkar, Nirman India
10. Dr. Rashwet Shrinkhal, Assistant Professor, Baba Bhimrao Ambedkar Central University, Lucknow
11. Dr. Muniraju SB, Deputy Advisor, SJE/VAC, NITI Ayog
12. Shri Anil Devidas Phad, National General Secretary, De-Notified Nomadic Tribes Development Council
13. Shri Vijay Raghavan, Professor, TISS, Mumbai Campus, Centre for Criminology and Justice, School of Social Work
14. Shri Dinanath Waghmare, President, Sangharsh Vahini
15. Dr. B. Mishra, President, Association of Voluntary Agencies for Rural Development (AVARD)
16. Shri Konthang Touthang, Joint Secretary, National Commission for Scheduled Tribes
17. Shri Balak Ram Baria, National General Secretary, All India Denotified & Nomadic Tribes Welfare Sangh

18. Shri Satish Sharma, CEO, Desi Sangrah Private Limited

Other Invitees

1. Shri R.N. Mundhe, Senior Research Officer, Social Justice and Empowerment, NITI Ayog
2. Ms. Smriti Pandey, Consultant, NITI Ayog
3. Shri Marimutthu, State President – Tamilnadu, All India Denotified & Nomadic Tribes Welfare Sangh
4. Smt. Snehal Mahulka, Nirman Organization, Pune
5. Shri Zile Singh, National Secretary, All India Denotified & Nomadic Tribes Welfare Sangh
6. Dr. Ranu Chhari, National President -Women Wing, All India Denotified & Nomadic Tribes Welfare Sangh
7. Sh. Jitendra Sisodia, State President -Madhya Pradesh, All India Denotified & Nomadic Tribes Welfare Sangh
8. Mrs. Anju Chauhan, State President -Women Wing- Madhya Pradesh, All India Denotified & Nomadic Tribes Welfare Sangh
9. Dr. Monika Singh, State President- Women Wing- Uttar Pradesh, All India Denotified & Nomadic Tribes Welfare Sangh
10. Adv. P. Ravi, State President - Andhra Pradesh, All India Denotified & Nomadic Tribes Welfare Sangh
11. Sh. Mahankali Srinivasrao, National Secretary, All India Denotified & Nomadic Tribes Welfare Sangh
12. Sh. Gyan Singh, State President- Rajasthan, All India Denotified & Nomadic Tribes Welfare Sangh
13. Sh. Shrinivas Thirpirsetty, State General Secretary- Telangana, All India Denotified & Nomadic Tribes Welfare Sangh
14. Sh. Koneti Srinivas, Executive Member, All India Denotified & Nomadic Tribes Welfare Sangh
15. Shri Surjaram Nayak, Akhil All India DNT, Bikaner, Rajasthan