CHAPTER-III

TRIBAL DEVELOPMENT AND
CONSTITUTIONAL PROVISIONS
TRIBAL DEVELOPMENT AND
CONSTITUTIONAL PROVISIONS

Ancient Indian Governance and Tribal Policy

Before analysing constitutional securities of Tribals it is matter of interest to point out the growth of tribal policy in India. To start with, for thousands of years the primitive tribes of India remained in oblivion. The tribes then lived in the dense forests and they attracted less attention than even the trees and animals of the forests. In Ancient Indian Hindu States the tribal people were never a problem. As such there was no need of a "tribal policy". It is true that during their military and hunting expeditions, some civilized people, especially the kings and princes, came into contact with groups of tribal people. Stories about such contacts are to be found in the Puranas, especially the epics of Ramayan and Mohabharata. However, these contacts were casual. And at times the contacts resulted in the brief subjugation of some tribal people. Still they never broke their isolation from civilization. Also, stray instances existed of the assimilation of tribal groups into the Hindu society. In real sense of term tribal people pose no threat to ancient administration.

Therefore, on the basis of Historical data, W.W. Hunter, has summed up the attitude of Hindu society towards the
tribal people in the following words "The Savars appears in very early sanskrit writings, and are spoken of by them with even more than usual detestation. As the Sadars, or aboriginal tribes who had been subdued into the servile castes of Aryan commonwealth, sprung from the feet of Brahma, so the savars and other forest races who successfully withstood the invaders, proceeded from the sweet of a cow. They were goblins, they were devils, they were raw eaters, they were man-eaters, and the Vishnu Purana has concentrated the national antipathy towards them, in its picture of a dwarfish race, with flat noses and skin the colour of a charred stake. Another sacred text assures us that they were as black as crows, with tawny hair, red eyes, a chin jutting out, short arms and legs and the typical flat nose. They seen to have their individuality strongly felt in ancient India. The beginning of their territory tong marked the last point of the Aryan advance. They are spoken as "birder tribes who resisted the sanskrit invaders, scattered armies and earned for themselves the title of the "terrible savers"."

In mythology tribals are more helpful to Aryans. Lord Rama’s acceptance of the hospitality of a Sabara woman and also his friendship with Guhaka Sabara are examples of culture-mix from Ramayana. The stories from Mahabharata, examples of culture-
mix innumerable contacts of the Pandavas with Forest dwellers and even some matrimonial alliances with them. Besides, these mythical evidences, other proof of great historical importance are also available. This is to be found in one of the rock-edicts of Ashoka, wherein the Buddhist emperor declares -

"Upon the forest tribes in his dominions his majesty has compassion for his majesty desires for all animate beings securities, control over the passions, peace of mind and joyousness." This is perhaps the first recorded evidence, not only in ancient India but also in the whole of ancient world, declaring the policy of the state in clear cut terms. Therefore, it can be concluded that in spite of occasional population control with tribals, some form of policy was there in Ancient period.

**TRIBAL POLICY IN THE MEDIEVAL PERIOD**

In Indian history the medieval period roughly covers the period from Mohammedan conquest up to the beginnings of the British role. Two contradictory trends of isolation and assimilation rules this period. These could be possible due to the phases of history and not owing to conscious innovations. As a matter of fact no medieval State had a defined and declared policy towards the tribals. The tribal policy of each State was determined in the context of the specific situations. This period saw the growth of certain tribal people as material races.
Ultimately they came to rule over territories inhabited by them and also by their neighbours. The chief among these are the Rajput and the Gond Kingdoms. Gradually, the Rajput and the Gond Rulers became accepted as warrior castes and came to occupy a high position in the caste hierarchy of Hindu society. The history of the Rajputs, therefore, be traced back to the invading tribal borders of Sakas and Huns.

Later on the Policy of the Mohammadan and Moghul Rulers and later on the Maharathas entertained a patronizing attitude towards these chieftains. They recognized their courage and valour and were willing to offer high vast areas to them. They were however not willing to recognize them as independent rulers or as peers. The result was that many Rajput and Gond chiefs came to occupy high positions in the civil and military ranks in the administration of the Mohammadans, Moghuls and Maharathas. Also with this the most terrible military campaigns were waged against them.

The other trend during the medieval period was the sending of some groups of tribal people into the forests and inaccessible areas. These people were driven away by their more advanced Hindu neighbours, the latter acquiring their land. This practice was prevalent due to the astounding growth of populations which compelled the marginal tribal people to seek
new territories. This process is chiefly responsible for keeping some tribes in extreme primitive condition until the present day.

**BRITISH POLICY IN INDIA AND TRIBALS**

Evidently after the medieval period the tribal people remained isolated in remote hills and forests for more than one century. They were unlike to Britishers then. But with the missionaries made their entry into these areas the British administration became aware of these tribes. The contact thus established was only superficial. Simultaneously was coupled with haphazard studies of the tribal people which delivered wrong notions and resulted in the policy of isolation.

In effect this policy of isolation led to the exploitation of tribal people by their non-tribal neighbours and also government officers. The rules passed for the conservation and preservation of forests encroached on the age-old rights of the tribal over the forest. These rights are in respect of the use of fuel timber, collection of minor forest produce and hunting. Along with this the restrictions on the rights of the tribal people were imposed by zamindars, money-lenders, contractors, and unscrupulous traders.

The total exploitation of the tribals compelled them to live in abject poverty and misery. In turn this circumstance resulted...
in a series of rebellion. To name the few rebellions by the tribal people are (1) the Santhal Revolution of 1855, (2) the Sardari agitation of 1887, (3) The Birsa Movement, (4) the Koya Revolt etc. Also, there were many other minor revolts spread all over tribal India.

In final it can be said, the British Policy was based on (1) isolation of the tribal people from the non-tribals, (2) maintenance of status quo, (3) imposition of restriction on the introduction of any social, economic or political change and (4) non-interference in the relationship between the tribals with the non-tribal officials who provided passive or active support to the exploiting classes.

**ADMINISTRATION FOR TRIBAL: GLIMPSES OF**

Administration for tribal, the idea of a separate administration for the tribal areas was felt by British Government. When the Paharias of the Raj Mahal Hills revelled against the landlords, Augustus Cleveland was deputed to handle the situation and he laid the foundations of the tribal policy. Accordingly, tribal areas were administered as per special laws, which among other things usually prescribed simple and elastic forms of judicial and administrative procedure. Example is of the Ganjam and Vizagattam Act of 1839. Later, all these areas were declared "Scheduled Districts" and their administration was conducted in...
accordance with the Scheduled Districts Act, 1874 This Act provided for the appointment of officers to administer civil and criminal justice, to superintend the settlement and collection of public revenues. Further, their actions composed of all matters relating to rent and administration within the Scheduled Districts. It also provided for the extension, by notification to the Scheduled Districts, of laws in force in any part of British India, with such special restrictions and notifications as were deemed fit. Thus, wide powers of legislation were vested in the executive to deal with tribal communities. The Government of India Act, 1919, the administrations of these areas separately also provided the new norms for these areas separately. They were removed from the purview of the legislatures with different degrees of execution. Eventually, there arose the two categories of "Wholly Excluded Areas" and "Areas of Modified Exclusion."

Further, it is pertinent to note here that, the British Government made increasing efforts to keep the tribal people aloof from the freedom movement, as it gathered momentum. The Indian Statutory Commission suggested that to deal with the situation constitutionally, responsibility should be entrusted to the centre. As such, the British Government's decision on the recommendations of the Commission were embodied in sections 91 and 92 of the Government of India Act, 1935. These
sections provided for the declaration by an order in council of "Excluded Areas" and "Partially Excluded Areas". No act of the Federal Legislature or the Provincial Legislature would apply to these areas, except on the direction of the Governor, who was empowered to make such exceptions and notifications as he considered necessary. It also empowered the Governor to make regulations for the peace and good Government of the areas. But such regulation required the assert of the Governor-General. Reservation of seats for tribals was made in the Local Legislature of Madras, Bombay, Bihar, Central Provinces, Assam, and Orissa.

Again, the fixation of the "Excluded Areas" were based on strictly necessity, whereas a more liberal method was applied for fixing up the "Partially Excluded Areas". Accordingly the frontier and border regions in Assam, the Lakshadweep and Minicoy islands, the labaul and split areas in the Punjab were declare as "Excluded Areas" and extensive tribal tracts in the provinces of Madras, Bombay, Bengal, United Provinces, Bihar, Central, Provinces and Orissa were declared as "Partially Excluded" areas.

TRIBAL POLICY IN POST-INDEPENDENCE ERA

A wind of change was imminent. The National Movement was steadily gaining ground. On this environment eminent thinkers...
and dedicated patriotic workers devoted their attention to social reforms and welfare. Mention may be made of the efforts of distinguished Raja Ram Mohan Roy and revered Thaker Bapa. Thakar Bapa concentrated on the hill tribes when he called them as Girijans and focused the eye of the Nation on the tribal problems. The ground, was thus, became fertile for the planting of constitution to the welfare of the backward classes in general and scheduled tribes in particular.

This was the year 1937. In that year the representative Governments at the centre and the States (provinces) Committees were appointed in the Provinces of Bihar, Orissa, Bombay and Madras to enquire into the living conditions of the tribals. Subsequently, these committees suggested some administrative changes in the tribal areas and proposed certain plans for the amelioration of the tribal people and for reduction of property. But the recommendations of these committees could not be implemented due to the registration of congress on the eve of II world war.

In independent India, the tribal policy is based on the constitution of India. That is the bible for tribal community. So to say it perhaps the most comprehensive declaration in the whole of history of India about the administration and development of
the tribal people and the backward classes. Also, it is the mirror in which tribal development is reflected.

**CONSTITUTIONAL GUARANTEES**

The constitutional provinces are noted below for making sound tribal policy in India:

- **Art. 16**: of the constitution provides for equal opportunities in the matter of public employment.
- **Art. 17**: abolished and forbids the practice of untouchability.
- **Art. 19**: guarantees the freedom of speech, assembly, associations, movement, residence in any part of the country, property and profession to all citizens of India.
- **Art. 23**: prohibits traffic in human beings and forced labour.
- **Art. 25**: guarantees freedom of conscience and free professions, practice and propagation of any religion.
- **Art. 29**: affords protection to the minorities for the conservation of their languages, script and culture.
- **Article – 46**: provides promotions of educational and eco-interests of scheduled cases and scheduled tribes and other weaker sections.
Part-VI of the constitution lays down that there shall be a Minister in charge of tribal welfare in the state of Bihar, Madhya Pradesh and Orissa

- Art 275 provides for meeting the cost of promoting the welfare of the scheduled tribes from the consolidated fund of India.
- Art 330 and 332 provide for the reservation of seats for SCs, and STs in the house of people and the state legislatures respectively.
- Art 325 provides for giving preferences to the SCs and STs in the services.
- Art 338 marks provision for the appointment of a special officer by the president of India to investigate and report upon the safeguards provided for the SCs and STs.
- Art-339- provides for the appointment of a commission at the expiration of ten years after the commencement of the constitution report on the administration of the scheduled areas and welfare of the scheduled tribes in the states.
- Art.342- empowers the President to revise the list of the scheduled tribes in consultation with the Governors of the state.
### Figure 3.1 Tribal Development and Constitutional Provisions

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<th>Article Numbers</th>
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**Art. 244 & 244D**

- Art. 244, 244D
- Art. 15, 16, 17
- Art. 19, 23, 25, 29, 46

**Art. 342**

- Art. 342
- Constitutional provisions
- Art. 325

**Art. 338**

- Art. 338
- Art. 330, 332
### Box 3.1 Constitutional Guarantees

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Socio-Economic Constitutional Guarantee in Action:

The Central and State Governments are making sincere endeavour to translate into action In consonance with the spirit of the constitution as reflected in the aforesaid provisions the Central and State Governments are transforming the conditions of the Scheduled Tribes from all angles As such their age-old condition of illiteracy and poverty is undergoing changes for progress and development in the field of education, economic standards, health and social uplift It has been noticed that although facilities are created for the economic development of the tribals opportunities are initiated brought with starting development projects, industrial units in their tribals areas, they have not been able to take full advantage of these opportunities provided chiefly because they are not properly equipped to reach full benefits out of these opportunities Provided when a steel factory is started in a tribal surrounding say RSP (Rourkela Steel Plant) it is noticed that the tribals are not able to take full advantage of opportunities of the appointment field of employment created thereby They are not technologically trained and it is difficult for them to find openings as skilled or semi skilled workers For this, particularly technical education and training have to be emphasised for the benefit of the younger generation of the tribals They have to
be given ample opportunities to equip themselves to take full advantage of the expanding new openings. The Central and State Government are striving in this direction and it is hoped that the tribal will come up in the not too far distant future.

**Detail Constitutional Provisions: Tribal Initiative**

The following are the bare constitutional provisions dealing with guarantees socio-economic rights for tribal communities. True these are reflected in above. But they are placed here again for detail analysis. They are under:

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**Art. 15-** Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
(1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on the grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -

(a) access to shops, public restaurants, hotels and places of public entertainment

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of state funds or dedicated to the use of the general public

Art. 15(4)-

Reservation in favour of scheduled tribes or scheduled castes for the purpose of advancement of socially or educationally backward citizens to make them equal with other segments of community
Art. 16-

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

(2) No citizen shall, on grounds of religion, race, caste, sex descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment of office orders the state.

Art. 16(4)-

No one has the right to prevent the state from making any provision for the reservation of appointments or posts in favour of any backward class of citizens, which, in the opinion of the state, is not adequately represented in the services under the state.

Art. 17-

Provides for "Abolition of Untouchability" and its practice in any form is forbidden. The enforcement of any disability arising out of "untouchability" shall be as offence punishable in accordance with law.
Art. 20(2)-

No citizen shall on the grounds of religion, race, caste, language, be denied admission into any educational institutions maintained or funded by state

Art. 30-

All minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice

Art. 35-

In accordance with the provisions of the Article-35, the Untouchability Offence Act, 1955 was passed by the Parliament to make the practice of untouchability a cognizable offence punishable under law

Art. 38-

(1) The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life

(2) The state shall, in particular, strive to minimise the inequalities in income and endeavour to eliminate
inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Art. 46-

The state shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the scheduled Tribes and the scheduled castes, and shall protect them from social injustice and all forms of exploitation.

Art. 330-

Provides that, seats shall be reserved for the scheduled tribes and scheduled castes in the House of the people in proportion.

Art. 332-

Provides that, seats shall be reserved for the scheduled tribes and scheduled castes in the legislative Assemblies of the states.

Art. 334-

Provides that nothing in this article shall effect any representation in the House of the people or in the legislative
Assemblies of the state until the dissolution of the then existing House or Assembly, as the case may be

Art. 335

The claims of the members of the Scheduled Tribes and Scheduled Castes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a state

Art. 338.

Under this Article, a Commissioner for Harijan welfare has been appointed by the Government of India to look after the special provision extended to the scheduled tribes and scheduled castes. To assert him, the Regional Assistant Commissioners have been appointed in each region. There are Advisory Boards in all the states of India to suggest the state Government ways and means of protecting the interests and promoting the welfare of the SC and St

Art. 342

(1) The President may with respect to any state of Union Territory, and where it is a state, after consultation with the Governor thereof by public notification, specify the
tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this constitution be deemed to be scheduled tribes in relation to what state or Union territory as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

THE ORISSA RESERVATION OF VACANCIES IN POSTS AND SERVICES ACT, 1975

The Orissa Reservation of Vacancies in Posts and Services (for SCs & STs) Act, 1975 has been in force of SCs and STs in posts and services. The percentage of reservation for SCs and STs for initial appointment and promotion for all categories of posts up to the lowest rung of class I (Group A) posts stands at 16.25% and 22.50% respectively.
PART-X i.e. THE SCHEDULED AND TRIBAL AREAS

Art. 244- Administration of Scheduled Areas and Tribal Areas

(1) The provisions of the fifth schedule shall apply to the administration and control of the scheduled areas and scheduled tribes in any state other than the state of Assam, Meghalaya, Tripura and Mizoram.

(2) The provisions of the sixth schedule shall apply to the administration of the tribal areas in the state of Assam, Meghalaya, Tripura and Mizoram.

Art. 244(a)-

Formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislative or council of Ministers or both therefore-

(1) Notwithstanding anything in this constitution, Parliament may, by law from within the state of Assam as autonomous state comprising all or any of the tribal areas specified in as-

(a) a body, whether elected or partly nominated and partly elected, to function as a legislature for the autonomous state, or
(b) a council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law.

(2) Any such law as is referred to in clause (1) may in particular-

(a) Specify the matters enumerated in the state list or the concurrent list with respect to make laws for the whole or any part thereof, whether to the exclusion of the legislature of the state of Assam or otherwise,

(b) define the matters with respect to which the executive powers of the autonomous state shall extend,

(c) provide that any tax levied by the state of Assam shall be assigned to the autonomous state in so far as the proceeds thereof are attributable to the autonomous state, and

(d) provide that any reference to state in any article of this constitution shall be constructed as including a reference to the autonomous state, and

(e) make such supplemental, incidental and consequential provisions as may be deemed necessary.
(3) An amendment of any such law as aforesaid is so far as such amendment relates to any of the matters specified in sub-clause (a) or sub clause(b) of clause(2) shall have no effect unless the amendment is passed in each House of Parliament by not less than two-thirds of the members present and voting

(4) Any such law as is referred to in this article shall not be deemed to be an amendment of this constitution for the purpose of article 368 notwithstanding that it contains any provision which amends or has the effect of amending this constitution

FIFTH SCHEDULE (i.e. Art 244(1)- PROVISIONS AS TO THE ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES.

PART-A(GENERAL)

1 Executive Power of a State in Scheduled Areas- Subject to the provisions of this schedule, the executive power of a state extends to the scheduled areas therein

2 Report by the Governor to the President regarding the administration of scheduled areas-

The Governor of each state having Scheduled Areas therein shall annually, or whenever so required by the
President, make a report to the President regarding the administration of the scheduled areas in that state and the executive power of the Union shall extend to the giving of directions to the state as to the administration of the said areas.

PART-B (ADMINISTRATION AND CONTROL OF SCHEDULED AREAS AND SCHEDULED TRIBES)

3. Tribes Advisory Council:

(i) There shall be established in each state having scheduled areas therein and, if the President so directs, also in any state having scheduled tribes but no scheduled areas therein, a Tribes Advisory Council consisting of not more than twenty members of whom, as nearly as may be, three-fourths shall be are representatives of the scheduled tribes in Legislative Assembly of the State.

Provided that if the number of representatives of the scheduled tribes in the Legislative Assembly of the state is less than the number of seats in the tribes Advisory Council to be filled by such representatives, the remaining seats shall be filled by other members of those tribes.

(ii) It shall be the duty of the tribes Advisory Council to advise on such matters pertaining to the welfare and
advancement of the scheduled tribes in the states as may be referred to them by the Governor

(iii) The Governor may make rules prescribing or regulating, as the case may be,

(a) The number of members of the council, the mode of their appointment and the appointment of the Chairman of the council and the officers and servants thereof,

(b) The conduct of its meetings and its procedure in general and,

(c) All other incidental matters

4. LAW APPLICABLE TO SCHEDULED AREAS

(i) Notwithstanding anything in this constitution the Governor may by public notification direct that any particular Act of Parliament or of the legislature of the state shall not apply to a scheduled area or any part thereof in the state apply to a scheduled area or any part thereof in the state subject to such exceptions and modifications as he may specify in the notification and any direction given under this sub-paragraph may be given so as to have retrospective effect
(ii) The Governor may make regulations for the peace and good government of any area in a state which is for the time being a scheduled area

In particular and without prejudice to the generality of the foregoing power, such regulations may,

(a) Prohibit or restrict the transfer of land by or among members of the scheduled tribes in such area,

(b) regulate the allotment of land to members of the scheduled tribes in such area,

(c) regulate the carrying on of business as money-lender by persons who lend money to members of the scheduled tribes in such area.

3 In making any such regulations as is referred to in sub-paragraph (2) of this paragraph, the Governor may repeal or amend any Act of Parliament or of the legislature of the state or any existing law which is for the time being applicable to the area in question

4 All regulations made under this paragraph shall be submitted forthwith to the president and until asserted to him, shall have no effect.
5 No regulation shall be made under this paragraph unless the Government making the regulation has, in the case there is a tribes Advisory Council for the state, consulted such council.

PART- C (SCHEDULED AREAS)

6 Scheduled Areas

(i) In this constitution, the expression scheduled areas means such areas as the president may by order declare to be scheduled areas.

(ii) The President may at any time by order -

(a) direct that the whole or any specified part of a scheduled area shall cease to be a scheduled area or a part of such as area,

(b) alter, but no only by way of rectification of boundaries, any scheduled area,

(c) on any alteration of the boundaries of a state or on the admission into the Union or the establishment of a new state, declare any territory not previously included in any state to be, or to form part of, a scheduled area, and any such order may contain such incidental and consequential provisions as appear to the president to be necessary and proper, but save as
aforesaid, the order may under sub-paragraph (1) of this paragraph shall not be varied by any subsequent order

PART - D (AMENDMENT OF THE SCHEDULE)

7 Amendment of the Schedule

(i) Parliament may from time to time by law amend by way of addition, variation or repeal any of the provisions of this schedule and, when the schedule is so amended, any reference to this schedule in this constitution shall be constructed as a reference to such schedule as so amended

(ii) No such law as is mentioned in sub-paragraph (i) of this paragraph shall be deemed to be as amendment of this constitution for the purposes of Article 368

IMPLICATION OF CONSTITUTIONAL PROVISIONS: TRIBAL WELFARE

The Directive Principles of State Policy, as enshrined in the constitution, have a positive bearing on tribal welfare. They enjoin the state to ensure that the health and strength of workers, men and women and the tender age of children are not forced by economic necessity to enter avocations unsuited to their age and strength and that childhood and youth are

protected against exploitation and against moral and material abandonment

The constitution prescribes protection and safeguards for scheduled tribes either specially or by way of general rights of citizens, with the object of promoting their educational and economic interests. These are:

(i) The promotion of their educational and economic interests and their protection from social injustice and all forms of exploitation

(ii) The curtailment in the interests of a scheduled tribe of the general rights of all citizens to move freely, settle in, acquire property and practise any trade or business

\[\text{Art 19(5)}\]

(iii) The obligation of the state to consider their claims in the making of appointments to public services and reservation for them in case of inadequate representation

\[\text{Art 16 and 335}\]

(iv) Special representation in Parliament and the state legislatures till Jan 25, 2000

\[\text{Art 330,332 and 334}\]
(v) The setting up of Advisory councils and separate departments in the states and the appointment of a special official at the centre to promote their welfare and safeguard their interests

[Art 338 and Fifth schedule]

Under Article 341 and 342, the President has specified the Scheduled Tribes. The Government of India has not specified backward classes other than the scheduled castes and scheduled tribes. It has left this matter to the discretion of the respective state Governments but they have been advised to adopt economic rather than caste criterion for this purpose.

Western democracies are fortunate - The people are educated. They are conscious. And this is what makes democracies free from inherent problems of the In India, literacy is very low. Here, poorly, backwardness rules. So the function of democracy is very minimal.

B R Ambedkar, the founding fathers of modern Indian constitution was quite aware of problems of dalits, marginalised say trial comminutes. Necessity for their upliftment they included special provisions to protect the rights of these groups. Hence, Constitution of India, the UN Human Rights Declaration, IRO Commission 106, 169, and other relevant statutes to understand the situation in India. The Constitution also laid down guidelines which the State must
follow in regard to these backward groups. To reiterate Article 46 the Constitution has said that the State shall protect SCs, STs and provide means for their development and has laid down means for doing so.

Development more particularly sustainable tribal development was meant to touch various aspects of the life of the people - agriculture, animal husbandry, infrastructure such as road building, dams, mining, industries, social issues such as health etc. To implement these development tasks, blocks of 100 villages (or in some cases less, blocks of 50 or so) were created. Participation and involvement of people was sought for various programmes and committees. This has been going on for decades. Even in the initial stages it was found that those who came for these committees were from those who were from the powerful and affluent sections of society, the upper castes mostly. They could "channelize" development for themselves. In the 1970s it was thought that the generalized guidelines prevalent for development projects was not good enough, and changed focus was necessary. The focus therefore, was to identify target groups, identify plans which suited them, so that development schemes would not peter out or be appropriated by affluent sections. Both community and target development are still in vogue. But all are crying with fears in the eyes.
One major flaw was that the target tribal people were not included. Collusion between bureaucracy and influential sections led the development situation to a halt. Bureaucratic efforts were not sympathetic to the people's cause in most cases. It is a fact that a stage has not reached where the influence of bureaucracy has lessened or that the benefits are reaching the people as expected.

Tribal development saw new dawn in the Rajiv administration. So, in the Rajiv Gandhi era, the 73rd and the 74th constitutional amendments changed the government tier from central-state-district-block (at the lowest tier the block was simply an appendage of the state govt with no real power) to bring about a radical change by having Panchayats at three levels: village (Panchayat), groups of villages (Panchayat Union), district (district Panchayat) purported to have elected representatives. In some states they have come into being, but in some states they have not.

It is to be noted that 73rd Amendment Act was not applicable to scheduled areas. Provisions of Panchayats (Extension to Scheduled Areas) Act came into force in 1996. Orissa is the first state of conduct election as per PESA in 2002. Post of offences and chairperson are reserved for Scheduled tribes in Scheduled Areas. Process of Gram Sabha was also modified after coming into force of PESA.
As such the person of Gram Sabha in Scheduled Areas are:

- Enforcement of prohibition of intoxicant, ownership of minor forest produce
- Prevention of alienation of land
- Restriction of any unlawful land of a Scheduled Tribe
- Control over money lending to Scheduled Tribes
- Control of Local Market
- Power to Safeguard cultural identity, community Resources and dispute resolution

**Constitutional Provisions for the Scheduled Tribes (STs): A Sum Up**

Obviously, the provisions in the Constitution make it incumbent on the State to "take care" of STs. In articles 15 and 16 (which refer to fundamental rights of citizens) exceptions are made to ensure that what is needed to be done for STs is done. For example, though equality of opportunity is the policy of the State, an exception is made for reservations. Article 244 enables the State to make special arrangements for development of STs. Article 275-1 enables the State (the central government particularly) to set aside financial provisions to be used for tribal development. If there are any schemes from the state government and the central government approves it, then the central government is bound to finance the
scheme. So we get all ingredients for the State in terms of the legality and financial arrangements. The State cannot have any excuse that they are not empowered enough. The V schedule is a unique aspect of the Constitution - it empowers the governor of a state to suspend any act of parliament or state legislature if he thinks it is not in the interest of the STs. This he can do even with retrospective effect. A similar aspect is not found anywhere else in the constitution. The VI schedule enables an autonomous district level body to be formed where there is a large percentage of tribal groups. This has been formulated especially for northeastern region which is unique in many respects. Districts in the northeast can be mini-states - they have a lot of financial, legislative, executive, and judicial power.

REFERENCES

1 (W W Hunter, Orissa under Indian role, In History of Orissa N K Sahu P-52)

2 Constitutional Provisions are taken from Constitution of India