



LEGAL STATUS OF JANJATIES (THE SCHEDULED TRIBES), THEIR IDENTITY AND FUTURE

*Dr. Seema Singh**

ABSTRACT

Janjaties(Scheduled Tribes) have been identified as a separate category in the Constitution. This paper deals with the origin of term tribe and their constitutional status. This also covers the constituent assembly debate over special protection to tribes and protection to their cultural identities. Now religious conversion is creating a serious threat to the cultural identity of tribes. If this issue has not been discussed properly then it can cause a massive damage to the non-converted tribes.

I. Introduction

There are around 700 tribes identified under article 342 of the Indian Constitution and the possible actual number can be much more than this and their total population is somewhere near around 12.5 crore as per the census of 2011. Among them 2/3rd inhabit in the ten States prescribed under the area prescribed under fifth Schedule and 13% in the North Eastern States including 6th Schedule area and remaining in other parts of the country. Few States like Punjab, Haryana, Chandigarh, and Delhi have no ST population.

The term "tribe" has been used for centuries to describe various social and cultural groups. Its origin can be traced back to the Latin word "tribus," which referred to a division of the Roman state, typically based on geographic and social factors. In ancient Rome, citizens were often divided into tribes for administrative and political purposes. The term "tribe" has a long history and has been used in various ways across different cultures and languages. Its origin can be traced back to Latin and Old French. The term "tribus" in Latin referred to one of the three political divisions of the early Roman people. These divisions were based on social and economic classes. Each tribus was further subdivided into smaller groups. Over time, the term "tribus" evolved to refer to a social group or division of people. The term "tribe" was borrowed from Latin into Old French as "tribu" or "tribe," retaining its general meaning of a social division or group of people.

As the concept of tribes evolved over time, the term was adopted and adapted by different cultures and languages. In the context of anthropology, the term "tribe" gained prominence as

a way to classify and categorize various indigenous and traditional societies based on their social structures, cultures, and practices.

However, it's important to note that the term "tribe" has been criticized for its potential to oversimplify and stereotype diverse groups of people. Many indigenous and marginalized communities have preferred terms that better capture the complexity and richness of their cultures and societies.

II. Coining of the Term 'Tribal'

In the Indian context, the term "tribe" has its origins in British colonial classification. In 1871 census first reference to tribes was done. Three categories were mentioned namely aboriginal tribes, semi hiduised tribes and hill tribes. In 1901 three parameters were set-religion, profession and geographical location. After 1871 census Criminal Tribes Act was enacted and by 1924 it was extended to entire country. This Act was annulled in 1949 and those tribes which were included under this Act were given status of Scheduled Tribes under our Constitution.

Here one point is extremely relevant to be considered that unlike English, neither the Hindu religious framework nor any other Indian language possesses an exact equivalent term with the same connotations as "tribe." This absence of an equivalent term suggests that, conceptually, Indian languages did not inherently differentiate these communities from the broader population.¹

In the early 20th century, there was a compassionate nationalist approach that sought to redefine the perception of tribes by viewing them as "culturally lagging Hindus." This approach aimed to assimilate tribal communities into mainstream society and involve them in the broader national narrative. The efforts were somewhat idealistic and involved bestowing tribal communities, particularly those in the Chhotanagpur region, with Kshatriya status or a "civilized" designation. Several initiatives were undertaken as part of this approach. One notable effort was the Arya Samaj's "shuddhi" program. This program aimed to reclaim those tribal individuals who had converted to Christianity, encouraging them to return to Hinduism. Additionally, various census reports since 1921 began classifying tribes, including followers of Sarna (the indigenous tribal religion), as Hindus, thereby attempting to integrate them into the Hindu fold. The Indian National Congress also played a role in these initiatives by

¹ Available at: [http://www.igntu.ac.in/eContent/IGNTU-eContent-590220362838-MSW-2-AjeetKumarPankaj-TribesinIndia-1,2.pdf_\(last visited on December 25, 2023\)](http://www.igntu.ac.in/eContent/IGNTU-eContent-590220362838-MSW-2-AjeetKumarPankaj-TribesinIndia-1,2.pdf_(last%20visited%20on%20December%2025,%202023)).

mobilizing tribal communities and attempting to include them in the nationalist movement. However, the success of these endeavors was limited. While a small fraction of the Hinduized Tana Bhagats responded positively to the Congress' appeal, the majority of tribes, such as the Mundas and Uraons, largely rejected these efforts to assimilate them into mainstream society. Despite the concentrated efforts, the concept of viewing tribes as "culturally lagging Hindus" and the attempts to redefine their identity and integrate them into mainstream society faced significant challenges and met with resistance from many tribal communities.²

The evolution of the "tribe" concept within pre-colonial and colonial India serves as a concise emblem of the profound cultural suppression endured by tribal communities. During the era of British colonial rule, the colonial ethnography assimilated this concept into the framework of the caste system. Placed at the lower echelons of the caste hierarchy, tribes became the antithesis of the "brahmanical" order. This conceptual degradation reached its zenith with the enactment of the Criminal Tribes Act in 1871, which criminalized tribes. The strong link between the development of this concept and colonialism has led scholars to view the "tribe" as a construct of colonial origin.

However, this perspective overlooks the significant reliance of colonial ethnographers on the same traditional Sanskritic sources that underpinned the pre-colonial conception. This reliance essentially perpetuated the portrayal of tribes by colonial powers as uncivilized as their predecessors. Yet, colonialism injected new vitality and relevance into the concept, introducing elements of social Darwinism and spawning a plethora of regional terms, all equally pejorative in nature.³

III. Constitutional Provisions Relating to Scheduled Tribes

Scheduled Tribes (STs) hold a significant place within the constitutional framework of India. The Constitution of India includes provisions aimed at safeguarding the rights, interests, and well-being of Scheduled Tribes. Here are some key aspects of the constitutional scheme pertaining to STs:

Scheduled Tribes (Article 366(25))

² Joseph Bara, "Alien Construct and Tribal Contestation in Colonial Chhotanagpur: The Medium of Christianity", 44 (52) *Economic and Political Weekly*, 90–96 (2009), available at: <http://www.jstor.org/stable/25663944>. Accessed 27 Apr. 2022 (last visited on December 25, 2023).

³ *Ibid.*

The Constitution defines Scheduled Tribes as those communities or tribal groups who are deemed as such under Article 342. The President of India is empowered to notify specific communities or groups as Scheduled Tribes based on the advice of the Governor of a state.

Fifth Schedule (Article 244, 244A, and Schedule V)

The Fifth Schedule delineates areas that are designated as Scheduled Areas, where tribal communities predominantly reside. This schedule provides special provisions for the governance, administration, and development of these areas. The Governor of a state with Scheduled Areas has the authority to make regulations to safeguard the rights and interests of tribal communities.

Directive Principles of State Policy (Article 46)

Article 46 emphasizes the promotion of the educational and economic interests of Scheduled Tribes, along with other weaker sections of society, to ensure their upliftment and advancement.

Reservation and Representation (Articles 330, 332, 334, 335)

These articles pertain to the reservation of seats for Scheduled Tribes in the Lok Sabha (lower house of Parliament) and state legislative assemblies. Article 334 places a time limit on the reservation for Scheduled Tribes in the Lok Sabha and state assemblies, while Article 335 ensures that the claims of Scheduled Tribes to services and posts in government employment are taken into consideration without compromising efficiency.

Protection against Exploitation (Article 23 and 24)

Articles 23 and 24 prohibit trafficking in human beings and forced labor, providing protection to Scheduled Tribes and other marginalized groups.

Developmental Measures (Article 275)

Article 275 empowers the Union government to provide grants to states with Scheduled Tribes for their socio-economic development. These constitutional provisions collectively reflect the Indian government's commitment to addressing historical disadvantages faced by Scheduled Tribes, protecting their distinct cultural identities, and ensuring their overall well-being. The implementation of these provisions involves a combination of legislative, administrative, and policy measures to uplift and empower Scheduled Tribes across the country.

III. Relevant Extracts

Under the constitutional order, 1950 as amended in 1990, SCs can be only from Hindus, Sikhs and Buddhists while STs can be from any of the religions.⁴ Many people are unaware that the Indian government does not formally recognize the Scheduled Tribes as Hindu groups. The original constitution made the same error with the SCs as well. However, it was fixed in 1950 when the then-government modified the regulations of the game by a Presidential Order. According to the third provision of the Constitution (Scheduled Castes) Order, 1950, "no person who professes a religion other than Hinduism shall be deemed to be a member of a scheduled caste." This one modification assured two things:

- i. The Indian state formally acknowledged that SCs were an important component of Hindu society. and
- ii. Only SCs who were Hindus (or would not convert) could benefit from the reservation system.⁵

There is no denying that STs are Hindus. During the era of Islamic attacks, most of these groups were part of mainstream Hindu society but were forced to seek safety in forests. As historian K.S. Lal writes in his 'The Legacy of Muslim Rule in India':

"Every populated area was destroyed wherever the army marched, according to Amir Khusrau. When the army landed in Warangal, Deccan, the Hindu residents hid in the hills and forest."

"...During Muslim reign, there was a massive increase in forest population."

"....The vanquished Rajas and weak agriculturists fled to the jungles." "Those who went to the jungle remained there, eating wild fruits, tree roots, and the coarsest grain when it was available, but always retaining their freedom." But, with time, a peasant turned as a tribal, and a tribal became a beast. "

"The thought, purpose, and action of leaving nothing but basic sustenance was the most heinous of all those listed above that led to the impoverishment of the peasantry."

"And the peasants, finding continued agriculture unprofitable and the regime's treatment intolerable, fled into the bush, where they created resistances."

⁴ Available at: https://censusindia.gov.in/tables_published/scest/Introduction.pdf(last visited on December 25, 2023).

⁵ Available at: <https://swarajyamag.com/politics/memo-to-modi-sarkar-its-time-india-officially-declared-scheduled-tribes-as-hindus> (last visited on December 25, 2023).

“Even Babur, who was usually a careful observer, had noticed that peasants in India were sometimes relegated to the status of tribals. In our nations, dwellers in the wilds (i.e. nomads) obtain tribal names; here (i.e. Hindustan), the established inhabitants of the cultivated regions and villages get tribal names, says he in his Memoirs [Babur Nama, II, p. 518].”

“In summary, the avalanche of Turco-Mughal invaders and their Government's agenda transformed many established agriculturists into jungle tribals. Many vanquished Rajas and harried Zamindars sought refuge in forests and distant strongholds. They had been vanquished in battle and had been demoted to the status of Scheduled Castes / Tribes / Backward Classes as a result of the policy of making them nest-o-nabud (destroy root and branch).”

“As a result, the numbers of what are now known as Scheduled Castes, Scheduled Tribes, and Other Backward Classes increased.”

“During the medieval time, during the years and centuries of persecution, they lived in makeshift huts in forest settlements, separated and secluded, suffering and striving, almost like wild creatures. However, by residing in forest settlements, they were able to retain their independence, faith, and culture. Their martial techniques, which were maintained in their Akharas, are being practiced in various ways in many states today. Such an occurrence had never occurred in West Asian countries. People in the vast open deserts could not defend themselves from forced conversions in the face of invading Muslim troops. There were no trees where people might run, hide, or organize resistance. As a result, they all converted to Islam.”

What Muslim domination could not totally achieve, the British did via their clever tactic of 'split and destroy' the Hindu community. K. S. Lal once more:

“...Their resisting spirit had made them good combatants. Fighting kept their health refreshed, making up for the lack of nutritious food in the woods. Because of their fighting mentality, the British saw them as thugs, thieves, and outlaws. However, the British, as well as other Europeans, began anthropological and sociological research on these destitute forest people. In order to find a term for these groups, British census

authorities labeled them as Aborigines (1881), Animists (1891-1911), and Adherents of Tribal Religions (1921-1931) in succeeding censuses.”⁶

Historian R.C. Mazumdar holds that castes are closed groups in which hereditary transmission of one’s own group status is transmitted.⁷

The Presidential order of 1950 on STs is silent on the converted STs unlike the SCs. This issue is continuously into discussion since 1950 and has been a matter of great concern for the STs who have continued to follow the faith of their forefathers- the Sanatana or Eternal faith.

Discussion and Debate in the Lok Sabha

This pertinent issue was very effectively raised by the great veteran Janjati leader Shri Kartik Oraon in the Parliament in late seventies. The occasion arose when the Union Government introduced the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1967 in Lok Sabha and finally referred to JPC for detailed deliberations. Ultimately a proposal was given by Shri Kartik Oraon, which recommended as-

.....No person who profess a religion different from the animism (tribal religion) and has been converted to any other religion according to the recognised religious ceremony of conversion of particular faith, shall be considered a member of the Scheduled Tribes.

But, unfortunately it could not be passed in voting.

Benefits being Enjoyed by STs in Service and Posts

Data referred during the debate on the bill in 1970 and memorandum to the then Prime Minister Shri Kartik Oraon clearly mentions that 5.53% Christians among STs (at that point of time) were consuming 80% share of the reservation and welfare fund while the STs following the Sanatan Faith, who were 94.47% of the ST population got just 20%.

⁶ Available at: <https://timesofindia.indiatimes.com/blogs/voices/scheduled-tribes-who-are-they-how-to-mainstream-them/?source=app&frmapp=yes> (last visited on December 25, 2023). Also see, https://niti.gov.in/planningcommission.gov.in/docs/reports/sereport/ser/stdy_scmnty.pdf(last visited on December 25, 2023).

⁷ J. H. Hutton, *Caste in India: Its Nature, Function and Origins* (Bombay: Indian Branch, Oxford UP, 1963) available at: <https://timesofindia.indiatimes.com/blogs/voices/scheduled-tribes-who-are-they-how-to-mainstream-them/?source=app&frmapp=yes> (last visited on December 25, 2023).

Still the situation more so ever is same except that the percentage of Christians converts among STs has become 15-18% who are now grabbing the lion share of 80% and just 20% share remains available to 82-85% of STs who remain steadfast in their Sanatan faith.

Dual Benefits to Converted STs

Such converted STs are getting dual benefits- those meant for STs and those meant for Minorities. The claim benefits of minorities when it is beneficial to them and next moment they claim benefit of STs as per their comfort ability. There are examples where a person who contested election for assembly and Mayor reserved for STs and a few years later was appointed as member of the State Minority Commission. Converted tribe students are getting benefits of Coaching meant for minorities which is discriminatory to non converted STs.

This is creating a reverse discrimination against non-converted tribes and for this reason demand of delisting is back. According to Janjatiya Suraksha Manch those who have converted to Christianity and Islam and do not follow the customs and traditions of Tribes should be delisted from the Scheduled Tribes List. According to them claiming scheduled tribes status by the converted people is the root cause of their marginalisation.

IV. Relevant Judicial Precedents

Chinni Appa Rao v. State of A.P⁸

The Hyderabad High Court has made it clear that once a member of Schedule Caste or Scheduled Tribe converts to Christianity or some other religion, such a person ceases to be a member of SC or ST and is no longer covered under the provisions of the SC and ST.⁹

C.M. Arumugam v. S. Rajgopal¹⁰

A three-Judge Bench of the Supreme Court of India in this case referred to the pronouncements in *Cooposami Chetty v. Duraisami Chetty*¹¹, *Muthusami v. Masilamani*¹² and *G. Michael v. S. Venkateswaran*¹³, and opined that:

It is no doubt true, and there we agree with the Madras High Court in G. Michael case that the general rule is that conversion operates as an expulsion from the caste, or, in

⁸ 2015 SCC OnLineHyd 564; (2016) 1 ALD (Cri) 545.

⁹ Scheduled Tribes (Prevention of Atrocities) Act, 1989.

¹⁰ MANU/SC/0283/1975.

¹¹ ILR 33 Mad 57.

¹² ILR 33 Mad 342 : Mad I.J. 49.

¹³ MANU/TN/0198/1952 : AIR 1952 Mad. 474

other words, the convert ceases to have any caste, because caste is predominantly a feature of Hindu society and ordinarily a person who ceases to be a Hindu would not be regarded by the other members of the caste as belonging to their fold. But ultimately it must depend on the structure of the caste and its rules and Regulations whether a person would cease to belong to the caste on his abjuring Hinduism. If the structure of the caste is such that its members must necessarily belong to Hindu religion, a member, who ceases to be a Hindu, would go out of the caste, because no non- Hindu can be in the caste according to its rules and Regulations. Where, on the other hand, having regard to its structure, as it has evolved over the years, a caste may consist not only of persons professing Hindu religion but also persons professing some other religion as well, conversion from Hinduism to that other religion may not involve loss of caste, because even persons professing such other religion can be members of the caste. This might happen where caste is based on economic or occupational characteristics and not on religious identity or the cohesion of the caste as a social group is so strong that conversion into another religion does not operate to snap the bond between the convert and the social group. This is indeed not an infrequent phenomenon in South India where, in some of the castes, even after conversion to Christianity, a person is regarded as continuing to belong to the caste.

Rajamannar, C.J., who, it can safely be presumed, was familiar with the customs and practices prevalent in South India, accepted the position "that instances can be found in which in spite of conversion the caste distinctions might continue", though he treated them as exceptions to the general rule.

(Emphasis supplied)

K.P. Manu v. Chairman, Scrutiny Committee for Verification of Community¹⁴

In this case the Supreme Court, referring to *C.M. Arumugam v. S. Rajgopal and Ors.*¹⁵ held that it cannot be laid down as an absolute rule uniformly applicable in all cases that whenever a member of caste is converted from Hinduism to Christianity, he loses his membership of the caste. It is true that ordinarily on conversion to Christianity, he would cease to be a member of the caste, but that is not an invariable rule, and it would depend on the structure of the caste and its rules and on conversion to Hinduism, a person born of Christian converts

¹⁴ MANU/SC/0189/2015.

¹⁵ *Supra* note 11.

would not become a member of the caste to which his parents belonged prior to their conversion to Christianity, automatically or as a matter of course, but he would become such member, if the other members of the caste accept him as a member and admit him within the fold.

State of Kerala v. Chandramohan; State of Kerala v. Chandramohan (28.01.2004 - SC)¹⁶

Whether member of tribe can be regarded as such member despite his conversion to another religion? The Supreme Court held that he may remain member of tribe if he continues to follow tribal traits and customs.

The question as to whether a person is a member of the Tribe or has been accepted as such, despite his conversion to another religion, is essentially a question of fact. A member of a Tribe despite his change in the religion may remain a member of the Tribe if he continues to follow the tribal traits and customs. If, by reason of conversion to a different religion, a long time back, he/his ancestors have not been following the customs, rituals and other traits, which are required to be followed by the members of the Tribe and even had not been following the Customary Laws of Succession, Inheritance, Marriage etc., he may not be accepted to be a member of a Tribe. In this case, it has been contended that the family of the victim had been converted about 200 years' back and in fact, the father of the victim married a woman belonging to a Roman Catholic, wherefore he again became a Roman Catholic. The question, therefore, which may have to be gone into is as to whether the family continued to be a member of a Scheduled Tribe or not. Such a question can be gone into only during trial.

Upon conversion, a person may be governed by a different law from the law governing the community to which he originally belonged but that would not mean that notwithstanding such conversion, he may not continue to be a member of the Tribe.

C.M. Arumugam relied on. Although it cannot be accepted as a broad proposition of law that a person ceases to be a member of a scheduled tribe simply by changing religion, the question of whether he ceases to be a member thereof or not must be determined by the appropriate court as such a question would depend on the facts of each case. In such a case, it must be proven that a person who has converted to another faith is still suffering from social

¹⁶ MANU/SC/0094/2004.

impairment and adhering to the practices and traditions of the society to which he formerly belonged.

S. Paul Raj v. The Tahsildar, Mettur Taluk and Ors. (17.11.2021 - MADHC)¹⁷

Religious conversion does not change a person's caste, rules Madras High Court. It held that the caste of a person does not change owing to religious conversion and an inter-caste marriage certificate cannot be issued on the pretext of his community certificate when he originally belonged to another caste and religion. This Court is of the considered opinion that Conversion from one religion to another will not affect a person's caste to which he belongs. In the present case, the petitioner admittedly belongs to the Christian Adi-Dravidar group and was granted the Backward Class certificate as a result of his conversion to Christianity. However, the petitioner is a 'Adi-Dravidar' by birth, and changing faith will not affect the community. The designations of Scheduled Caste, Scheduled Tribes, The majority Backward Classes, Backward Classes, and Other Castes have no effect on the caste.

P. Rajan v. State of Kerala¹⁸

The Kerala HC ruled that the Committee's findings were reached after thorough investigation and that there was no basis for the Court to overturn them. This Court finds no reason to disagree with the findings of the Scrutiny Committee for verification of Community Certificates, entered into after anthropological enquiry. This Court finds that the conclusions in Ext.P8 order of the Scrutiny Committee is based on material evidence collected by the Committee.

S. Anbalagan v. B. Devarajan¹⁹

The convert must renounce his or her caste, and only then can a person lose Scheduled Caste classification. Simply changing faith does not imply that the convert is not subject to the disadvantages experienced by Scheduled Castes. If the convert wishes and wants to remain a member of the caste, and the caste continues to regard him as a member, he will remain a member of the caste notwithstanding his conversion.

¹⁷ MANU/TN/8512/2021.

¹⁸ 2021 SCC OnLine Ker 436.

¹⁹ (1984) 2 SCC 112.

V. Judgments on Applicability of Hindu Personal Laws

In *Lakshmi Narayan Tudu v. Smt. Basi Majhian*²⁰, substantial question of law has been raised, whether Hindu Succession Act or Hindu Law is applicable in the matter of inheritance among the members of Scheduled Tribes, if they are sufficiently Hinduised. Held, yes.

In *Manjhi and Ors. v. Bhabani Majhan and Ors.*²¹, it was observed that *tribals can be governed in matters of inheritance and succession if they become sufficiently Hinduised*. It was further observed by the court that the question *whether the tribes are sufficiently Hinduised or not is a mixed question of fact and law*.

In *Budhu Majhi and Anr. v. Dukhan Majhi and Ors.*²², it was held by court that it is not necessary that parties should be completely Hinduised. It is enough that the person concerned is sufficiently Hinduised. Court also observed that no formal ceremony is required for a person to become a Hindu.

In *Labishwar Manjhi v. Pran Manjhi and Ors.*²³, it has been clearly held that if the members of tribes follow customary and practices of Hinduism, the Hindu Succession Act, 1956 would be applicable. The said case related to the Santhal Tribe, who were seen following Hindu customs, and hence the Supreme Court held that the *HSA would be applicable* to their situation, in spite of the said tribe being a notified tribe.

In a recent judgment, the Himachal Pradesh High Court in case of *Bahadur v. Bratiya*²⁴ held that daughters in the tribal areas in the state shall inherit the property in accordance with the Hindu Succession Act, 1956 and not as per customs and usages in order to prevent the women from social injustice and prevention of all forms of exploitation.

VI. Excerpts from Constituent Assembly Debates

Constituent Assembly of India Debates (Proceedings) - Volume V

"Conversion from one religion to another brought about by coercion or undue influence shall not be recognized by law."

Sardar Vallabhbhai J. Patel

²⁰ AIR 2004 Jhar 121.

²¹ AIR (33) 1946 Pat 218.

²² AIR 1956 Pat 123.

²³ (2000) 8 SCC 587.

²⁴ ILR 2015 (III) HP 1259.

The Honourable Sardar Vallabhbhai J. Patel stated that: Much of this debate may be shortened if it be recognised that there is no disagreement on the merits of the issue that forcible conversion should not or cannot be acknowledged by law. On that principle there is no difference of opinion. The question is only whether this clause is necessary in the list of fundamental rights. Now, if it is an objective for the administration to act, it has a place in the Second Part which consists of non-justiciable rights. If you think it is necessary, let us transfer it to the Second Part of the Schedule because it is admitted that in the law of the land forcible conversion is illegal. We have even stopped forcible education and, we do not for a moment suggest that forcible conversion of one by another from one religion to another will be recognised. But suppose one thousand people are converted, that is not recognised. Will you go to a court of law and ask it not to recognize it? it only creates complications, it gives no remedy. But if you want this principle to be enunciated as a seventh clause, coming after clause 6, in the Second Schedule, it is unnecessary to carry on any debate; you can do so. There is no difference of opinion on the merits of the matter. But at this stage to talk of forcible conversion on merits is absurd, because there cannot be any question about it.²⁵

Constituent Assembly of India Debates (Proceedings) - Volume III

"Any conversion from one religion to another of any person brought about by fraud, coercion or undue influence or of a minor under the age of 18 shall not be recognized by law."

Mr. K. M. Munshi

The Hon'ble Shri Purushottamdas Tandon (United Provinces: General): * [Mr. President, I am greatly surprised at the speeches delivered here by our Christian brethren. Some of them have said that in this Assembly we have admitted the right of every one to propagate his religion and to convert from one religion to another. We Congressmen deem it very improper to convert from one to another religion or to take part in such activities and we are not in favour of this. In our opinion it is absolutely futile to be keen on converting others to one's faith. But it is only at the request of some persons, whom we want to keep with us in our national endeavour that we accepted this. Now it is said that they have a right to convert young children to their faith. What is this? Really this surprises me very much. You can convert a child below eighteen by convincing and persuading him but he is a child of

²⁵ Available at: <http://164.100.47.194/loksabha/writereaddata/cadebatefiles/C30081947.html> (last visited on December 25, 2023).

immature sense and legally and morally speaking this conversion can never be considered valid. If a boy of eighteen executes a transfer deed in favour of a man for his hut worth only Rs. 100, the transaction is considered unlawful. But our brethren come forward and say that the boy has enough sense to change his religion. That the value of religion is even less than that of a hut worth one hundred rupees. It is proper that a boy should be allowed to formally change his religion only when he attains maturity.

One of my brethren has said that we are taking away with the left hand what we gave the Christians with our right hand. Had we not given them the right to convert the young ones along with the conversion of their parents they would have been justified in their statement. What we gave them with our right hand is that they have a right to convert others by an appeal to reason and after honestly changing their views and outlook. The three words, 'coercion', 'fraud' and 'undue influence' are included as provisos and are meant to cover the cases of adult converts. These words are not applicable to converts of immature age. Their conversion is coercion and undue influence under all circumstances. How can the young ones change their religion? They have not the sense to understand the teachings of your scriptures. If they change their religion, it is only under some influence and this influence is not fair. If a Christian keeps a young Hindu boy with him and treats him kindly the boy may like to live with him. We are not preventing this. But the boy can change his religion, legally only on attaining maturity. If parents are converted, why should it be necessary that their children should also change their religion? If they are under the influence of their parents, they can change their religion on maturity. This is my submission.²⁶

VII. The Constitution (Scheduled Tribes) Order, 1950 C.O. 22

The Order of The Constitution (Scheduled Castes), 1950 (C.O. 19) - Regardless of what is stated in paragraph 2, no individual who practices a religion other than Hindu [Sikh, or Buddhist] will be considered a member of a Scheduled Caste.

Mythological Shreds of Evidence

The Mahabharata has elaborate details of Arjuna's marriage connections with Naga princess Ulupi and Manipur princess Chitrangda, their roles in some crucial events, and the

²⁶ Available at: <http://164.100.47.194/loksabha/writereaddata/cadebatefiles/C01051947.html> (last visited on December 25, 2023). Also see, available at: <https://www.news18.com/news/opinion/what-the-indian-law-says-on-conversion-religious-identity-of-scs-431797.html> (last visited on December 25, 2023).

participation of their respective sons Iravan and Babruvahana on Pandava's side in the Kurukshetra battle.

VIII. International Comparison

Nepal Criminalizes Christian Conversion and Evangelism²⁷

The constitution prohibits converting persons from one religion to another and bans religious behaviour disturbing public order or contrary to public health, decency, and morality. A new criminal code, which became effective in August, reduces the punishments for “convert[ing]... the religion of another person” or for engaging in any act that undermines the religion, faith, or belief of others from six to five years’ imprisonment.²⁸

Sri Lanka Anti Conversion Bill

It is aimed at discouraging if not exactly criminalizing conversions including genuine conversions. Why should this be so if the Bill is aimed only at unethical conversions? The Bill does not cover persons who have no religion although their parents may be Buddhists and they may be discouraged to genuinely convert for they run the risk of becoming branded as criminals owing to the requirement to report their conversion to the Divisional Secretary. Christians alleged this bill as violating the International Covenant on Civil and Political Rights.²⁹

IX. Conclusion

On the basis of above discussion, it is clear that tribes are the cultural identities who believe in nature and also worship the same. They believe in original bhartiya value and culture and originally Hindus. Religious conversion of tribes through deception, inducement or fraud is in the violation of their right. A converted tribe is converted on behest of certain promise of benefit. Once a tribe converts into any minority religion, they get double benefit. Firstly, the benefit of the tribes and secondly, the benefit of religious minority. They also get benefit of conversion. The result is majority of benefit of reservation and other rights are availed by these converted tribes and non-converted hindu tribes remained deprived of the same. Thus, it creates a discrimination between converted and non-converted tribe. Conversion even

²⁷ Available at: <https://www.christianitytoday.com/news/2017/october/nepal-criminalizes-conversion-christianity-evangelism-hindu.html> (last visited on December 25, 2023).

²⁸ 2018 Report on International Religious Freedom: Nepal, Available at: <https://www.state.gov/reports/2018-report-on-international-religious-freedom/nepal/>.(last visited on December 25, 2023).

²⁹ Available at: <https://groundviews.org/2009/01/25/the-anti-conversion-bill-violates-the-freedom-of-conscience-and-the-freedom-of-expression/>.(last visited on December 25, 2023).

otherwise is a threat to national integration. This issue should be addressed immediately and urgently to protect the rights of non-converted tribes and to protect the interest of the nation.