

India's Adivasi identity: A Constitutional ambiguity, an unresolved question

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The question “Who is an Adivasi?” lacks a precise, definitive answer within India's administrative and constitutional framework.

Terms like Adivasi, Girijan, Vanavasi, Moolvasi, and Indigenous are common in public debate, political rhetoric, and activism. Yet the Constitution provides no explicit definition for any of them. Even the official legal category—Scheduled Tribes (ST)—lacks detailed constitutional explanation or fixed criteria.

This constitutional silence was deliberate. The framers avoided rigid sociological definitions, preferring a flexible, notification-based mechanism. Over time, this approach has produced unintended consequences: growing developmental disparities within tribal communities, identity disputes, and questions about whether the framework adequately protects the most vulnerable.

The Legal Identity of STs

Under Article 342, the President notifies communities as Scheduled Tribes after consulting a state's Governor. Parliament can later include or exclude groups via legislation. Article 366(25) defines “Scheduled Tribes” simply as those so notified.

No binding constitutional criteria exist for these notifications. The Lokur Committee (1965) suggested informal indicators—primitive traits, distinct culture, geographical isolation, shyness of contact, and backwardness—which have guided decisions since.

The current procedure requires state governments to propose inclusions, followed by scrutiny from the Registrar General of India and the National Commission for Scheduled Tribes. These are administrative guidelines, not constitutional mandates, and their relevance is increasingly questioned amid rapid social change.

Many notified tribes have undergone significant cultural and economic shifts due to migration, education, urbanization, and modernization. In *Anand vs. Committee for Scrutiny and Verification of Tribal Claims* (2011), the Supreme Court held that tribal customs and traditions alone cannot determine ST status. Administrative recognition thus narrows the social reality of “Adivasi” largely to “notified ST.”

Once notified, all ST groups are treated equally under law, with no internal hierarchy or sub-classification permitted. The Supreme Court has repeatedly ruled—notably in *State of Maharashtra vs.*

Milind (2001)—that courts and executive authorities cannot modify the list; only Parliament can.

The Problem of Fraudulent Certificates

Fake ST certificates undermine genuine beneficiaries. Fraudulently obtained certificates allow ineligible persons to access reservations in education, employment, and politics, often for decades while cases drag on in courts. In *P. Kranthi vs. State of Andhra Pradesh* (2000), the Andhra Pradesh High Court held that a certificate issued by revenue authorities remains valid until cancelled.

Reports indicate 148 cases are currently pending in various courts in Andhra Pradesh, challenging claims based on spurious community certificates.

Parliamentarians from Andhra Pradesh and Telangana have repeatedly raised the issue of bogus certificates in the Lok Sabha (2017–2025). The Union government has consistently maintained that verification and action fall under state jurisdiction, with no comprehensive national law in place.

Scheduled Areas and Eroding Protections

In Fifth Schedule areas—constitutionally protected tribal zones—safeguards are under strain. Telangana has 85 fully or partially

scheduled mandals, Andhra Pradesh has 38. Non-tribal influx, land alienation, and disrupted livelihoods continue despite protective laws. The Supreme Court's 2020 ruling in Chebrolu Leela Prasad struck down 100% reservation for local Scheduled Tribes in scheduled area jobs, further diluting protections.

Children of Mixed Marriages and Inter-Group Disparities

No uniform policy exists on ST status for children of tribal–non-tribal unions. Courts decide case-by-case, considering upbringing in tribal culture, social acceptance by the tribe, and backwardness (Rameshbhai Dabhi Naika vs. State of Gujarat, 2012). This leaves many children facing stigma and exclusion.

Among India's 705 notified tribes, 75 are classified as Particularly Vulnerable Tribal Groups (PVTGs)—a non-constitutional category for targeted schemes. In the Telugu states, groups like Chenchu, Kolam, Konda Reddy, Thoti, Savara, Gadaba, Porja, and Konda remain among the most deprived, facing acute shortages of basic services.

The Plight of Gutti Koya Migrants

A stark example of systemic neglect is the situation of Gutti Koya (or Gotti Koya) migrants from Chhattisgarh. Displaced by armed

conflict since around 2005, tens of thousands have settled in forest areas of Andhra Pradesh, Telangana, and Odisha. Official estimates place them at around 40,000–50,000 families in the two Telugu states.

Recognised as ST in Chhattisgarh, they are treated as non-tribals in their host states. Successive Union Home and Tribal Affairs Ministry circulars (1982, 1984, 2018) tie ST status to the state of origin, denying them access to reservations and forest rights. They remain, in effect, citizens without full belonging in India's federal structure.

Denotified Tribes and the Indigenous Debate

Several Denotified Tribes (DNTs)—communities stigmatized as “criminal tribes” under colonial law and later denotified—share socio-cultural traits, marginalisation, and livelihoods similar to recognised STs. Yet they remain outside the ST list.

Internationally, instruments like the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) and ILO

Convention No. 169 provide broader criteria for indigeneity based on historical continuity, distinct culture, and pre-colonial presence.

India has not ratified ILO 169 and maintains that all Indians are indigenous, rejecting the concept of separate “Indigenous Peoples.”

Nonetheless, it voted for UNDRIP without reservations. By international standards, many Scheduled Tribes—and potentially some DNT communities—meet the criteria for indigeneity. The gap between India's domestic legal position and evolving global norms remains unresolved.

Towards Genuine Equality

Constitutionally, all STs are equal. In reality, sharp disparities persist. Some tribes have made notable progress in education, employment, and political representation; others face persistent land loss, poverty, high dropout rates, and inadequate healthcare. Treating unequals as equals does not produce equality. Genuine justice demands recognition of varying vulnerability, tribe-specific and region-specific interventions, and meaningful consultation with tribal communities.

The 2006 Draft National Tribal Policy is widely regarded as outdated. A high-level committee submitted 108 recommendations on ST socio-economic conditions in 2014, yet as recently as 2019 the Tribal Affairs Minister informed Parliament that inter-departmental opinions were still being gathered, with no final timeline set.

Such prolonged delays are indefensible. Unless internal inequalities within tribal communities are acknowledged and addressed, the very groups the Constitution seeks to protect will continue to reproduce disparities in their midst.

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