

Considering Repeal of Habitual Offenders Act - Denotified Tribes

What is the issue?

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The continuing stigmatisation of the Denotified Tribes (DNT) in India calls for the repeal of the Habitual Offenders Act.

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Who are the Denotified Tribes?

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- The term, 'De-notified and Nomadic Tribes', can be traced to the Criminal Tribes Act (CTA) of 1871.

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- The colonial government notified nearly 200 tribal communities to be hereditary criminals.

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- This fixed their societal identity as outcasts and subjected them to constant harassment by the administration.

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- After Independence, these tribes were 'de-notified' from the list of Criminal Tribes, and, hence, the term Denotified Tribes (DNT).

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How were they dealt?

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- The state-sanctioned stigmatisation of the DNTs in India under British rule was very evident.

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- The CTA allowed for close supervision and control over the mobility of the tribes notified by the provincial governments.

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- The Act was amended in 1897, 1908 and 1911 to give sweeping powers to the authorities.
- This included some draconian powers as allowing the state to remove any child of age six and above from its 'criminal' parents.
- By 1924, certain provisions were amended, and the Act was finally applicable to the whole of British India.
- Along with the introduction of laws such as Forest Acts and Salt Tax Act, the British placed stringent regulations on the DNTs.

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What is the Habitual Offenders Act?

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- In independent India, the need was felt to shift the collective burden of criminality to the individual.
- This led to the CTA being repealed and the Habitual Offenders Act (HOA) being enacted in various States.
- Currently, a variant of the HOA Model Bill as proposed by the Union Government, stands enforced in 10 States.

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How are the DNTs at present?

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- The Habitual Offenders Act (HOA) functioned as a mere extension of the Criminal Tribes Act (CTA).
- Fifteen crore individuals, better known as the Denotified Tribes (DNT) of India, continue to be considered 'criminal by birth'.
- Certainly, the mere repeal of the CTA could not change the mindset of government officials or members of society.

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- Nomadic and semi-nomadic communities continued to face harassment at the hands of law enforcement agencies and ostracisation by society at large.
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- Given their centuries-old tradition of constant movement, they often do not possess any residential proof.
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- This leaves them out of the majority of the government's developmental schemes.
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- Those deemed eligible for such schemes were randomly grouped under the Scheduled Castes, Scheduled Tribes or Other Backward Classes categories.
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- As a result, most members of the DNTs continue to be out of the orbit of steps being taken to end discrimination.
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What were the measures taken?

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- The first National Commission for Denotified, Nomadic and Semi-nomadic Tribes (NCDNT) was constituted in 2003.
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- It was reconstituted two years later under the chairpersonship of Balkrishna Renke, which submitted its report in 2008.
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- The NCDNT report clearly recommends repealing the various HOAs.
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- The recommendations found an echo in the Idate Commission, constituted with the similar mandate in 2015.
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- However, the Idate Commission Report lacks the scientific data necessary to introduce reforms to address the plight of DNTs.
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What lies ahead?

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- There is a need for establishing society-wide changes for DNTs to gain access to political-social-economic welfare.

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- Their unique lifestyle requires positive affirmation and development policies that cater to their specific needs.

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- So the repeal of the law has to be accompanied by a slew of legal reforms, addressing the multitude of issues that DNTs face.

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Source: The Hindu

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