



INDIAN INSTITUTE OF DALIT STUDIES

Devoted to Studies on Social Exclusion, Marginalised Groups and Inclusive Policies

# **Criminal Stigma and Livelihood: Socio-Economic Study of De-notified Tribes in Karnataka**

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## **Foreword**

Indian Institute of Dalit Studies (IIDS) has been amongst the first research organisations in India to focus exclusively on the development concerns of marginalised groups and socially excluded communities. Over the last twelve years, IIDS has carried out several studies understanding different aspects of social exclusion and discrimination against the historically marginalised social groups such as the Scheduled Castes, Scheduled Tribes, religious minorities, women and the disabled persons in India and other parts of the sub-continent.

The working paper on “Criminal Stigma and Livelihood: Socio-Economic Study of Denotified Tribes (DNT) in Karnataka” examines the criminal stigma faced by the denotified community and its impact on their livelihood and socio-economic condition. This paper also attempted to analyse the existing legal provisions and its limitation in addressing their problems. The findings exhibits the vulnerable socio-economic condition of the DNT communities. They did not have access to basic amenities, potable drinking water, toilet, electricity, house and other basic facilities. Majority of them are literate and unskilled, so, they were forced to continue with the traditional occupation which is stigmatised and were not provided with alternative livelihood opportunities. Their traditional job is seen as illegal and there are no constitutional safeguards. They were always under the vigilance of the police and sometimes booked in the false cases. They face public humiliation, physical and sexual harassment. They were discriminated while accessing hotel, temple, public transport, hospital, panchayat office and other public services. They could not get benefit from many government schemes as they lack the required documents. These situations make them more vulnerable and seek the attention of the NGOs, the government, and policy makers.

We hope that this Working Paper would help in generating awareness and further deliberation across members of the academic fraternity, students, researchers, activists, civil society organisations and policy-making bodies.

**Sanghmitra S. Acharya**

Director



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# **Criminal Stigma and Livelihood: Socio-Economic Study of Denotified Tribes in Karnataka**

**S. Japhet , Balgurumurthy, Dilip Diwakar G and Nidhi Sadana Sabharwal**

## **1 Introduction**

Indian society is known for its multiple social groups defined both by religion, caste and ethnicity. As per the Census 2011, India has about 8.6 per cent tribal population, and this will give us a total tribal population of more than 104 million in India (Census 2011). The tribal population of India is broadly divided into two categories, namely, forest dwelling tribes and nomadic tribes.

Some of the nomadic tribes were notified as criminals as per the Criminal Tribe Act of 1871. The Ayyangar Committee report recommended the repeal of the Criminal Tribe Act (CTA) to the Government of India. Thus, the Criminal Tribes Laws (Repeal) Act, 1952 was enacted on the basis of this recommendation. This act de-notified the people who were previously called criminals, and these people are now referred to as 'De-notified Tribes' (DNTs).

The quality of life of the nomadic tribes is very poor because of their extreme poverty. This has resulted in the prevalence of high rates of under-nutrition, high morbidity and high infant and maternal mortality among these tribes. Their nomadic lifestyle does not allow their children to acquire a regular education which results in low capability development. Their political representation at the state as well as the local level is almost nil, which, in turn, results in very little articulation of their needs at the political and administrative levels. Their traditional occupations are being threatened by legislation and have virtually been made redundant by modern technology. Most importantly, even though they have been legally de-notified as criminals, they continue to face social, economic, political and cultural discrimination and exclusion because of the stigma attached to them historically.

Recognising these problems of the nomadic tribes, both the union and state governments have introduced a series of programmes and schemes to help them improve the quality of their life. Unfortunately, the benefits of these projects have not fully reached the nomadic tribes either because of the lack

of awareness about these programmes or the difficulty in obtaining caste, residential or voter identity certificates. This problem is compounded by the fact that the nomadic tribes have received no representation in either the democratic decision-making process or in policy-making.

### **a. Historical Trajectory of Criminality-induced Stigma**

The tradition of incarcerating and isolating those who commit a crime is rooted in the disciplines of utilitarian economics and criminology theories.<sup>1</sup> In economics, utilitarian principles categorise people according to their utility in society. The practice of incarcerating those with less or negligible utility for society has origins in sixteenth-century Europe where the poor, lepers, persons with ‘deranged minds’, criminals and vagabonds were excluded from society either by being isolated or by being shipped off to distant lands.<sup>2</sup>

Biological theory, based on the theory of eugenics propounded by British scholar Francis Galton (1822-1911), and the criminological theory postulated by the Italian scholar Cesare Lombroso (1835-1909), has suggested that both intelligence (Galton, 1869) as well as criminality (Lombroso, 1864) have antecedence in hereditary traits. The wide acceptance of eugenic theory led to the possibility of re-engineering society through biological (genetic modifications) as well as sociological (incarceration) intervention.

These developments took an important turn in 1869 when the Habitual Criminals Act was passed in England. This Act made special provisions for the identification, surveillance and detention of the ‘habitual criminals’ as the police officers collected extensive lists of ‘habitual criminals’. The concept of a ‘habitual criminal’ equated criminality with identity (Radzinowicz and Hood, 1990; Wiener, 1994; Pavlich, 2010), thereby increasing the stigma faced by the ‘criminal’.

These developments in the West, particularly Britain, had important implications for India. In 1772 imperial India, during the governorship of Warren Hastings, regulations were introduced that identified Indian criminals as being characterised by both profession and heredity, and

1 Although the disciplinary roots of sociology, political science and criminology are relevant, these are subsumed within larger utilitarian logic. However, its impact is better analysed by using sociological or criminological lenses.

2 Michel Foucault’s *Madness and Civilization* has an excellent analysis of this phenomenon. Interestingly Foucault (1988, p. 7) makes the point that such “abandonment is his salvation; his exclusion offers him another form of communion”.

therefore allowed for the punishment of their families as well (Schwarz, 2010, pp. 4, 7). Immediately after the introduction of the Habitual Criminals Act in England, the Criminal Tribes Act (CTA) in 1871 was introduced in Imperial India. Subsequently, the colonial government compiled a list of wandering tribes who could be useful to the state by introducing legislation to control their movements and to enable forced sedentarisation.

During the mid-nineteenth century, the British extended their tax net to the remote areas of India by forcibly taxing the *Adivasi* (tribal) communities living in the forests and mountains under the land revenue system (Marriott, *et al.*, 2006), which made the life of the tribes more vulnerable and forced them to get involved in illegal activities.

Although initially the CTA (1871) was implemented in North India, subsequently the geographical area under its span was extended to the Bengal Presidency and to the nearby regions in 1876, and the Madras Presidency in 1911. Interestingly, further amendments to the CTA in 1924 gave extensive powers to the local bodies including the village headman. Thus, while the provisions of the Act gradually got extended to different regions at the national level horizontally, an attempt was also made to empower the authorities vertically to enable them to exercise control over the lives and activities of the tribes.

The CTA of 1871 provided the legal mechanism to incarcerate adivasi communities in the *reformatory* settlements. Sher (1965) has found that if any member of a registered criminal tribe committed a crime (under the Indian Penal Code specified in the first schedule), and was convicted of the same offence for a second time, he would be convicted to 7-10 years imprisonment, but with the third crime, he would be sentenced to deportation for life. Strangely, for the same offence, non-criminal tribe members were imprisoned for just 3-6 months or even set free. “Therefore, the CTA was completely an act of genocide on the criminal tribes of India” (Sher, 1965, p. 247).

The CTA also instituted various forms of spatial control and restrictions. Criminal tribe members had to report to the local police station or to the village headman for roll-call, called *hazri*, three times a day to prove their presence in the specified area. Since some of the incarcerated settlements were meant

to reform the criminal tribe members, the administration of settlements was given to a Christian Missionary organization, the Salvation Army, which profited from the enterprise. The criminal tribe members received low wages and were put to hard work (Sher, 1965, p. 253). Vishvanathan (2009, p. 65) rightly puts that, “The criminalisation of tribes was a great achievement of law which was the invention of bonded labour”. The harsh treatment meted out to the tribes under the CTA increased the levels of crime among the notified members as they hurt children and parents both emotionally and psychologically, and it was almost impossible to reform them (Sher, 1965, p. 248).

### **b) Criminal Tribes to Habitual Offenders**

At the time of Independence, an estimated 13 million people from 127 communities (Knafla, 2002) faced close surveillance and the threat of arrest simply because they belonged to Criminal Tribe groups. A Criminal Tribes Inquiry Committee, set up to inquire about this development, strongly recommended that the nomads should be sedentarised and taught a life of industry and culture to tackle the incidence of all kinds of traditional crimes.

On the basis of the Ayyangar Committee’s recommendations, the Government of India subsequently repealed the CTA on 31 August 1952 through the Criminal Tribes Laws (Repeal) Act, 1952, following which the people belonging to the ex-criminal tribes were categorised as De-notified Tribes (DNTs).

Soon after the repeal of the CTA, the Government of India, instead of introducing rehabilitation or welfare policies for the de-notified tribes, enacted the Habitual Offenders Act (HOA) in 1959. This act, now with another name, *habitual offenders*, again brought the ex-criminal tribes under state scrutiny and suspicion. The HOA empowered the police to investigate habitual offenders without any warrant which resulted in abduction, interrogation, illegal detention, custodial deaths and largely false arrests of the de-notified tribes. The HOA preserved some provisions of the former CTA, “except the premise implicit in it that an entire community could be born criminal” (Devy, 2006, p. 22).

After reviewing India’s 15<sup>th</sup> – 19<sup>th</sup> periodic reports, on 9 March 2007, The United Nation’s Committee for the Elimination of Racial Discrimination

directed India to repeal the HOA and to rehabilitate the de-notified tribes (Mohapatra, 2007). After many presentations by the Gujarat-based group, the De-notified and Nomadic Tribes Right Action Group (DNT-RAG) before the National Human Rights Commission of India, and despite the issuance of orders to the state governments to repeal the HOA, 1959, immediately, this Act continues to prevail in most of the states of India leading to immense suffering among the marginalised communities.

## **2 . Denotified Tribes in Karnataka**

The English term ‘nomad’ is derived from *Nemein* in Greek, and *Nomas* in Latin. In different Indian languages, the nomads are called by different names. In Tamil, they are *Pokkan*, and *Tirugubothu* in Telugu, *Thenti* in Malayalam and *Ghumanthu* in Hindi. In Kannada, the term used is *Alemari*. Mainstream Karnataka society calls them by different synonyms such as Gosai, Jayamma, Jogi, Dasaiah, Beggar etc. Anthropologists considered shepherds as nomads as they believe that it is not occupational migration but everyday wandering in search of food. Therefore, the wandering people are called nomad or Alemari people.

Karnataka is one of the major states of India. There are about 6.95 per cent of scheduled tribes in Karnataka (Census 2011). Karnataka has been the home for both the forest-dwelling tribes and the nomadic tribes who are denotified. There is a lack of reliable official data on the size of the so-called denotified tribes (DNTs) in Karnataka. However, the federation of these tribes, known as Alemari tribes Federation and Mahasabha, has carried out a household survey by entrusting this responsibility to each of the nomadic tribes. On the basis of this survey, the federation has estimated the population of these tribes to be approximately eight lakh.

There are variations in living styles, food habits and other cultural expressions of the denotified tribes. However, there are many unifying factors in the lifestyle of nomads across different tribes. Most of them practice the traditional occupations like taming the wild animals such as bears, jackals, snakes, wild pigs etc., and use them for performance. They also use the knowledge of traditional medicine and put in several performances of tribal culture.

Mostly, nomads speak their own languages called ‘Maragu Basha’ which are different from the mainstream languages. They are known for their oral literature and different art forms. However, these creative expressions have been silenced by branding them as criminal tribes.

India has Denotified tribes and Nomadic Tribes in 23 states and the largest Nomadic Tribes and Denotified tribes are found in Maharashtra (with 73 Nomadic tribes and Denotified tribes) followed by Karnataka with 56 Nomadic tribes and Denotified tribes. These Denotified tribes are distributed and merged into scheduled caste and scheduled tribe and other backward classes. In Karnataka, there are 24 denotified tribes and 32 nomadic tribes. Among the 24 Denotified tribes, nine tribes are listed in the scheduled caste and 2 in the scheduled tribe and 12 in the other backward classes list (see Table 1).

**Table 1. Denotified Nomadic Tribes listed under different categories**

<b>DNT SCs</b>	<b>DNT STs</b>	<b>DNT OBCs</b>
Adi-dravida	Bhill (Dungri-garasiya)	Bairagi (Budgajangam)
Banjara	Pardhi (Hakki-pikki)	Bedaru
Dombara		Beriya
Gantichor		Bamta
Handijogi		Chaara
Kepmaris		Ghisadi
Koracha		Jogi
Mala		Kanjara-bhata
Mangarudi		Kanjari
		Masana-jogi (Sudugadusidda)
		Natt
		Gujar
		Maravar

The DNTs list had geographical connotations confined to particular districts in Karnataka and each DNT is called by different names in different areas. For example, Lambani, Vaddar, Pardhis, Yarakula, Kaikadi, Koravar are some names which are often used. Lambani is a different name for Banjara. Yarakula is a term used in Andhra but in Karnataka, they are called Koracha while Kaikadi is the term used in Tamil Nadu.

Similarly, different forest-dwelling tribes were confined to particular districts. However, today we hardly find the DNTs living in the forests. They live in the outskirts of cities and towns, particularly in barren fields and railway stations, and some in the slums where they are engaged in prostitution.

As all the DNTs and nomadic tribes suffer from the identity crisis, these communities face grave issues like wrong synonyms which mislead their genuine identity guaranteed in the State lists. The consequence of such identity crisis is court cases filed to settle the identity (See Box 1). This issue is examined thoroughly in the field as each DNT is recognised with different names. For example, the Budgajangamas are called Byragis in Kolar, Chikkabalapura, Bangalore, and rural districts, which is totally a false identity. Similarly, Masanajogis have a different identity of Sudagadu Siddha. It is in Maharashtra that the Sudugadu Siddhas are called Masanajogi and Katipapa in Andhra Pradesh.

**Table 2: Population of DNT communities under study**

	1991			2001		
	Male	Female	Total	Male	Female	Total
Pardhi (Hakkipikki)	1697	1670	3367	4272	4142	8414
Handi Jogis	6157	5914	12071	8847	8796	17643
Bairagi (Budga Jangam)	62461	58595	121056	27958	26915	54873
Kanjara Bhaat	NA	NA	NA	1000	1001	2001
Masana Jogi (Sudugadu Siddha)	6658	6548	13206	10907	10,424	21331
Bhill (Dungri-garasiya)	1199	1062	2261	869	764	1633
Dombara	NA	NA	NA	NA	NA	NA
Mang garudi	NA	NA	NA	NA	NA	NA
Jogi	NA	NA	NA	NA	NA	NA
Ghisadi	NA	NA	NA	2018	2012	4030

Source: Census data

The Budgajangamas and Sudagadu Siddhas share almost all the characteristics between them that are very important indicators to decide the identity of any

tribe. They have marital ties with each other, and speak similar languages. They worship similar deities and perform similar rituals. In addition to that, they have common caste Panchayats, except the occupational differences, yet both are given two different caste identities and both are isolated. Likewise, Pardhis have a similar division in the name of Hakkipikki, Harini Shikari and Chigari Shikari. The Hakkipikki identified people have failed to understand the 'Pardhi' identity which is one and the same otherwise.

The population of the Beda/Budga Jangama which was 16 during the 1961 census sharply increased to 455 by 1971 and to 27,994 in 1981. This sudden increase between 1971 and 1981 is not consistent with the natural population growth in those districts. Moreover, between 1971 and 1981, area restrictions were removed as far as this community was concerned. Further, when the positive discrimination policies were introduced, the number went up again to close to 1.5 lakh, and in the 2001 census, it has come down again (Table 5).

## **D) Profile of Denotified Tribes**

### **i) Pardhi**

The *Pardhi* tribe originated from Rajasthan and Gujarat, and later from Maharashtra where its members served Shivaji, the famous Maratha King, as Sainiks. The field study finds that they are generally identified as *Hakkipikkis*. The *Pardhis* speak their own language, known as *Vagri Basha*. They hardly own any lands. The women sell toys and do petty business like selling hairpins and balloons in Alanda Taluk. The *Pardhis* also sell illicit liquor. They live by hunting, begging, collecting and selling forest products and are experts in snaring birds. They are generally poor and have very low social status. Some of them own and cultivate land.

### **ii) Maang Garudi**

The *Maang Gurudis* claim that their ancestors served the army of Shivaji Maharaj and rendered their services as brave soldiers. It is only after Shivaji's death that they began to lead a very hard life, and in the course of struggle for existence, they were forced to loot the travellers and passers-by for subsistence. The *Maang Gurudis* move from place to place exhibiting acrobatics and other street performances. Their traditional occupations include performing acrobatics, snake charming, sheering buffaloes, jugglery

and magic shows. Most importantly, they are engaged in preparing liquor, stealing agricultural products, and dealing in cattle trading. The women of the *Maang Garudi* tribe are engaged in begging. The stigma of criminality haunts them in every walk of life but despite their struggle in our field area, the community has produced a lawyer with a B.A., LL.B degree. However, not a single female child in the tribe has studied up to the tenth standard.

### iii) Masana Jogi (Sudugadu Sidda)

*Masanajogi* is an identity of the *Sudugadu Sidda* nomadic tribe. Both the terms *Masana* and *Sudugadu* mean graveyard. The words *Jogi* or *Siddu* are used to refer to a wandering nomad. The *Sudugadu Siddas* were called *Masanajogis* during British rule as they would attract the masses for their cultural performance. The *Siddus* put on makeup or a disguise and live outside the village, preferably in graveyards. Basically, they are followers of *Shaiva*, and dwell in the forests. They come out of the forests only in search of food. Rejected by mainstream society, they started living on the outskirts of towns and villages. Our field study shows that the *Masanajogis* are not welcome in some parts as they are regarded as criminals and suspected to be the practitioners of witchcraft, due to which they are often attacked by the mainstream people.

### iv) Kanjara Bhaat

The term *Kanjara Bhaat* is derived from the Rajasthani language—*Kanjara* means knife or sword of iron and *Bhaat* means a low-caste person. The *Kanjara Bhaats* used to prepare swords, knives and other weapons, hence the name, *Kanjar Bhaat*. The data confirms that these people are engaged in criminal activities. They loot travellers and indulge in other anti-social activities. The social welfare department of Maharashtra, in its report on criminal tribes in 1936, mentioned that the *Kanjara Bhaats* were lodged in open prisons and later in the settlements.

A majority of the *Kanjara Bhaats* live in tents, the outskirts of railway stations and slums. Their major source of income is the preparation of illicit liquor, beggary, petty jobs and the collection of broken items or glass pieces.

### **Box 1: Contesting for Identities**

Kondapalli Muniyappali is one of the founders of the nomadic Budga Jangam community from Mulbagil Taluk in Kolar District. His wife contested for village Panchayat membership and won the elections. Later another Dalit woman questioned the identity of Muniyappa's wife, challenging that Muniyamma is not a scheduled caste woman by producing the school records where wrong entries like Byragi, Malasanyasi etc., were recorded. The district collector also failed to understand the identity confusion of nomads and declared that Munniyamma is not a scheduled caste woman. Later, social activists approached the honourable High Court of Karnataka, and the court declared that the district collector was wrong in declaring Muniyamma's identity.

Later, Manjunatha, a nomad Budga Jangam contested for membership of Legislature. Once again, a Dalit filed a petition in court alleging that Manjunatha was not a scheduled caste person. But the argument was heard by the Honourable High Court and the court was convinced of the genuineness and did not 'stay' his election candidature.

For the first time, he won in the Mulbagil constituency with a 34,000 votes lead. After the election, too, a court case was filed on the issue of identity and the decision is still pending.

Thus, the identity crisis is not only disturbing Nomadic communities but the entire Taluk.

### **v) Handijogi**

The term '*Handi*' is used to describe a bowl made of pumpkin. Since *jogis* take to begging, they use this bowl for collecting alms. Hence, these *Jogis* came to be called *Handijogis*. During the initial stages, this group was not a caste. It was a stream of the *Nath* cult. The *Handijogis* do not ostensibly belong to a single caste, but are composed of outcastes of various Hindu castes. They mostly engage in begging. They also hawk medicines and supply herbs to druggists. Their women sell needles and glass beads in the country side.

### **vi) Ghisadi**

The *Ghisadi* tribe is considered to comprise the below-caste blacksmiths. It is commonly believed that the Ghisadis used to manufacture arms for the army of Maharana Pratap, but became wandering blacksmiths after this army was disbanded.

Being mostly engaged in the blacksmith jobs, members of the *Ghisadi* community offer immense help to the farmers in sharpening agricultural tools including tractors. The *Ghisadis* do not carry the stigma of criminality and discrimination like the other tribes. However, they enjoy respect because their tribe is perceived as an occupational tribe.

### **vii) Beda Jangam/Budga Jangam**

The *Beda/Budga Jangam* tribe comprises a community of hunters and bird trappers who originally belonged to Andhra Pradesh where they are called the *Budga Jangamas*.

The *Beda Jangams* are mainly landless. The *Beda Jangam* women help the men in their traditional occupation of soothsaying and seeking alms. They also work as wage labourers, pick cotton in the cotton fields, and weave mats with date palm leaves among other things. The children too help their parents in seeking alms and mat-weaving. Traditionally, they are officiating priests for some of the *Holeya* and *Madiga* communities. In addition to this, they are religious mendicants, soothsayers and wage labourers. The *Beda Jangams* are entirely different from the Jangam group of *Lingayats*, a numerically dominant community in Karnataka.

However, the *Beda Jangam* as well as the *Mala Jangam* categories have been heavily infiltrated by the *Jangams* of the *Veerashaiva/Lingayat* group. Some of them pass themselves off as *Beda Jangams* in order to avail the benefits of protective discrimination accorded to the SCs.

### **viii) Dombaru**

People identified as *Doms* have long been workers at cremation sites, and have been scavengers, or weavers of ropes and baskets. They are also traditionally well known for their musical ability. The *Dombas* are renowned for their acrobatic skills and magical performances, which is their main source of livelihood. Occasionally, they manufacture and sell wooden and horn combs and paper dolls. The *Dombas* are also usually called upon to perform a repertoire of additional services such as making oracular predictions, performing exorcist rites and curing certain diseases.

### **ix) Jogis**

The *Jogis* are followers of yoga and worshippers of the Hindu god, Shiva. The community once comprised only mendicants, but the latter are now outnumbered by those who have taken to cultivation. The term *Jogi* now consists of three distinct classes of persons—one implies purely religious mendicants of the various *Jogi* orders, the second includes various people who live by fortune telling, practising exorcism and divination, and finally, they include a number of endogamous castes.

### **x) Dungri Garasiya**

The *Bhils* comprise the second largest tribe in India. Presently, they are mostly working as agricultural labourers. The *Dungri Garasia* tribe is a nomadic one in nature. While 83 per cent of the members of the *Dungri Garasia* tribe are involved in agriculture, 2 per cent of them are also involved in begging.

The above descriptions of the 10 selected DNT communities reveal the complexity of DNT lives. For most of these tribes, the fight for identity is closely associated with survival strategies.

## **3 Research Methodology**

### **D). Objectives of this Study**

The broad objective of the proposed study is to develop an understanding through empirical evidence of the nature of social exclusion, isolation and discrimination experienced by the denotified tribes in Karnataka and to study its consequences on their civil, social, economic and political life. The study will also capture their present livelihood status and suggest measures for addressing their problems. More specifically, the objectives of the proposed study are:

1. To identify and understand the forms and nature of social exclusion, isolation and discrimination experienced by the Denotified tribes due to the past stigma of criminality in multiple spheres, namely civic, social, economic and political. As part of this objective, we have examined the sources of livelihood, employment opportunities, education and health facilities and participation in cultural and political institutions.

2. To study the consequences of social exclusion, isolation, discrimination associated with the stigma of criminality on access to civil rights, economic opportunities and political participation. As part of this objective, we have examined the issues of atrocities against them, sexual harassments, filing of criminal cases and attacks on their persons and property.
3. To examine the present occupational pattern, asset holdings, educational attainment, skill formation, income and employment levels and incidence of poverty.
4. To assess the condition of housing, sanitation, drinking water and other amenities.
5. To critically review the constitutional safeguards, protective laws, policies and programs of rehabilitation and development.
6. To make recommendations for evolving an appropriate policy for improving the quality of life of the Denotified tribes.

## **II. Research Design**

The proposed study is exploratory in nature. It has to some extent drawn upon government reports and academic studies to build a profile of these nomadic tribes. This study has also made use of the qualitative data which is available in the literature which is further supplemented by our own field survey as a source of information. For field study, we have used interview schedules and these schedules were canvassed at the household level to collect the relevant data. Some case studies highlighting the consequences of the stigma of criminality were also carried out as part of our field study and have been put down in the boxes.

The study focuses on the selected denotified tribes who are nomadic or semi-nomadic tribes. In Karnataka, it is reported that there are as many as 24 denotified tribes as listed in Table 2. As stated earlier, these tribes are categorised into three groups, and each of these groups is merged into SCs, STs and OBCs. In the first category, nine of them have been included, two in the second category and thirteen have been included in the third category.

In the light of our discussion with knowledgeable persons, it became clear to us that out of these 24 denotified tribes, only 10 could be identified as the most vulnerable groups. These groups are Budgajangam, Sudugadusidda, Dombaru, Mangarudi, Pardhi, Ghisadi, Kanjarabhat, Handijogi, Jogi and Dungrigarasia (Bhil). Among these groups, Budgajangam, Handijogi, Sudugadusidda and Dombaru are dispersed across a large number of districts. On the other hand, the remaining groups are confined to some selected districts like Mysore, Gulbarga, Haveri and Yadgir. These 10 groups are selected for our field study on the basis of two basic criteria: their vulnerability and their geographical spread.

**Table 3: Denotified Nomadic Tribes as listed in different categories**

DNT SCs	DNT STs	DNT OBCs
1. Adi-dravida	1. Bhil (Dungri-garasiya)	
2. Banjara	2. Pardhi (Hakki-pikki)	
3. Dombara		
4. Gantichor		
5. Handijogi		
6. Kepmaris		
7. Koracha		
8. Mala		
9. Mangarudi		

For each of these tribal groups, approximately 30 schedules have been canvassed such that we have a total respondent size of 300 in all. Besides, we also carved out focused-group discussions with these social groups with the view of capturing their collective views and opinions. For field study, we identified and visited several settlements where these tribes are concentrated, as shown in appendix Table 3. The data so collected was analysed and interpreted by using simple statistical measures and displayed in simple two-way tables. Some case studies are also presented in boxes at appropriate places by way of illustrating their lifestyles and the problems these groups encounter in their day-to-day life.

The field survey was carried out in 15 districts where the selected tribes were largely settled, as may be seen from Table 2. In each of the selected districts,

more than one DNT has been selected except in the case of Tumkur, Hassan and Mysore districts where only one DNT for each district was picked for the study.

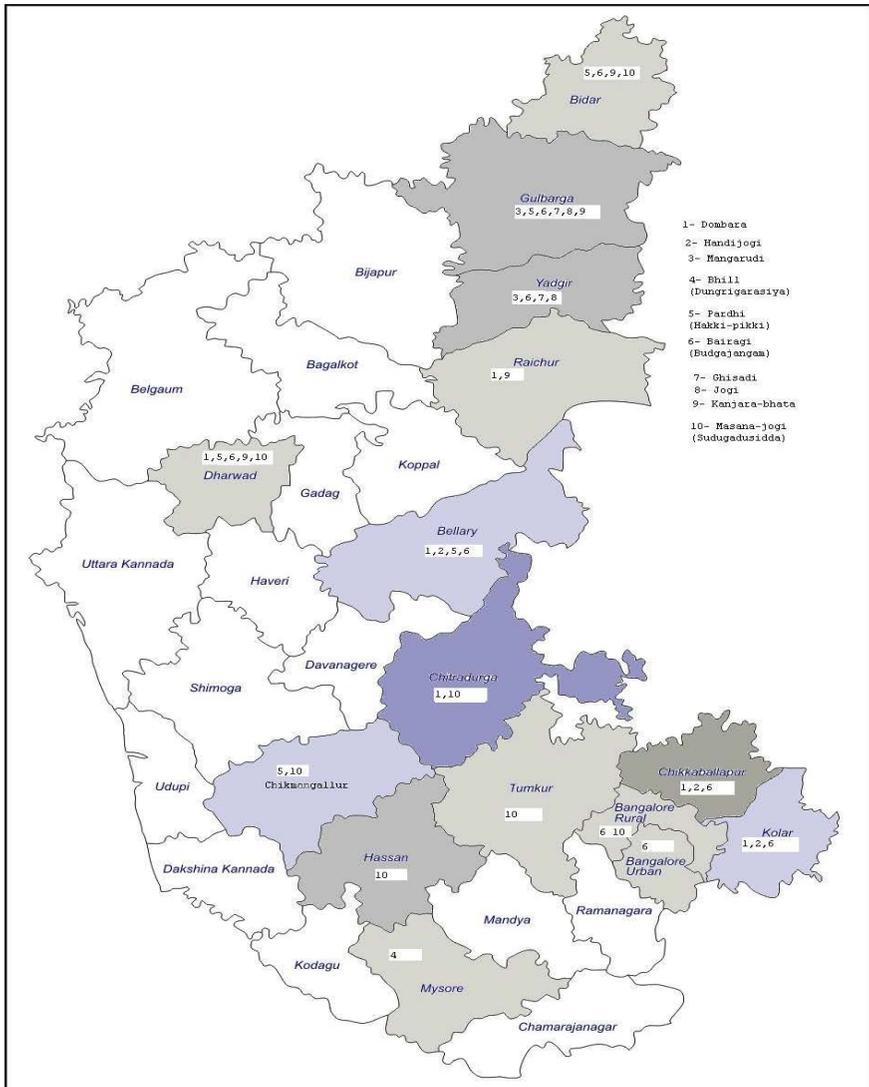
**Table 4: District wise, distribution of DNTs selected for study.**

Sl. NO.	Name of the District	Name of the DNTs
1.	Kolar	Dombara, Handi Jogi, Byragi (B.J.)
2.	Chikkabalapura	Handi Jogi, Byragi (B.J), Dombara
3.	Bangalore Rural	Byragi (B.J), Masanajogi (S.G.)
4.	Bangalore Urban	Byragi (Budga Jangam)
5.	Tumkur	Masanajogi (Sudugadu Sidda)
6.	Chitradurga	Dombara, Masana Jogi
7.	Bellary	Dombara, Byragi (B.J), Pardhi, Handi Jogi
8.	Raichur	Dombara, Kanjara Bhaata
9.	Dharwar	Dombara, Pardhi, Byragi (B.J),Kanjara Bhaat, Masana Jogi
10.	Yadgir	Byragi (B.J), Ghisadi Jogi Maang Garaudi
11.	Gulbarga	MaangGarudi, Pardhi, Byragi (B.J), Ghisadi, Jogi, Kanjara Bhaat
12.	Bidar	Pardhi, Byragi, Kanjara Bhaat, Maasana Jogi
13.	Hassan	Masana Jogi
14.	Chikka Mangalore	Pardhi, Masana Jogi
15.	Mysore	Dungri, Garasiya

Figure 1 maps out the geographical localities where the fieldwork was conducted. Due to the time limitations, the coastal districts were avoided. Access to these communities was also an important factor. In fifteen districts, we had a good rapport with the nomadic tribe organisations which facilitated our interaction for canvassing the survey. The field work also involved a field investigator who visited the settlement for about a week (and staying with these communities for a few days). During the stay, the field investigators conducted the interviews with the help of educated members of the particular tribe. Face-to-face interviews were conducted and the prescribed survey schedule was filled out simultaneously. In most of the survey schedules, apart from the closed questions which provided quantitative information, the open questions were also included. The closed questions were processed by using

SPSS software, and they are primarily summarised through cross-tabulation and simple descriptive statistical measures. Qualitative information is developed into short cases which are also presented in the form of the boxes chapters 3 and 4.

**Figure 1: Geographical location of DNTs selected for Study**



For each of the tribal groups, approximately 30 schedules have been canvassed. However, after screening the survey schedules for their quality and reliability, only 248 out of 300 schedules are used for analysis in this

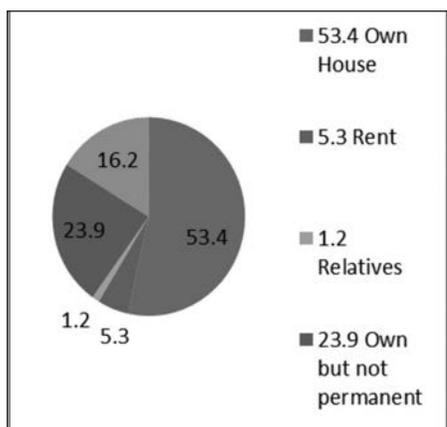
report. Besides, we also carried out focused group discussions with these social groups with a view to capture their collective views and opinions. In order to enrich the data, we made keen observations of the respondents' living conditions and family situation, and occasionally posed questions outside the interview schedule. The answers to these questions were noted down in a separate sheet for our future use.

### **III) Housing and Living Condition**

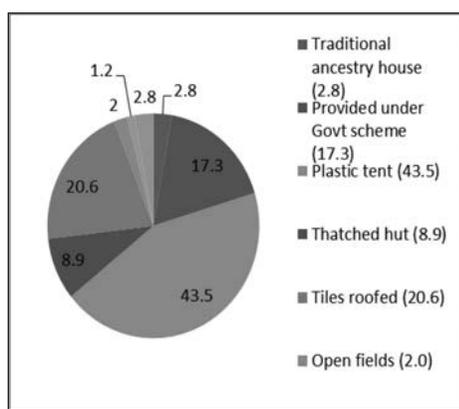
In this section, we attempt to identify the factors contributing and perpetuating the low socio-economic conditions of DNTs. We need to understand the health, education and income of a person to understand the development of any community. Therefore, we have collected the information relating to housing, sanitation and drinking water to understand their well-being.

Homelessness and landlessness is one of the striking features of DNTs' socio-economic profile. Some of them have residential houses on government land and private land, and they live in fear that they may be evicted any time. Though about 53% of them reported to have their 'own' house, the quality of house is so poor that about 44% of them live in plastic tents. These houses which are of small dimension are also overcrowded with most of the houses accommodating 4-6 persons. During our survey, we found that most of the DNT communities do not own agricultural land, and that only nine per cent of the households reported that they possess some agricultural lands.

**Diagram 1: Ownership Pattern of DNT Houses**



**Diagram 2: Type of Houses lived in by DNTs**



The chances to avail the facilities such as toilet or electricity are increased if the house is constructed through *Ashraya* and *Ambedkar* Schemes. However, only 17.3% of our respondents have benefited from these two government schemes. Only 10 per cent of respondents reported to have toilet facilities in their residential houses. A majority of 83 % use the open field, and about 3 per cent each use the public and neighbour's toilet. Majority of 83 % depend on public tap water, and about 23 per cent depend on bore well, protected well (about 1 per cent), open wells (18 per cent), lakes and canals (9 per cent) and ponds (17 per cent). On the whole, nearly 65 per cent of the respondents reported to have electricity connection in their house.

Unhygienic surroundings and poor access to potable drinking water have created poor living circumstances, often making the DNTs susceptible to water-borne diseases, respiratory problems and similar ailments. In important ways, such poor living standards cause non-DNTs to keep away from these communities thereby reinforcing stigma and exclusion.

**Table 5: Access to Basic Services**

<b>S. No</b>	<b>Basic services</b>	<b>In percentage</b>
1.	Own House	53.4
2.	House under govt schemes	17
3.	Plastic tent	44
4.	Own toilet	10
5.	Electricity	65

## **II) Socio-Economic and Occupation Status**

To understand the socio-economic status of DNTs, information on occupation, income, land possession, literacy, household asset and accessibility of government schemes and programmes was collected.

Most of the households do not own any assets except bicycles (72%), mobile phones (70%) and television sets (32%). Other assets such as tables/chairs, electric fans, radios, and refrigerators are possessed by a very insignificant number of households, namely not more than 2-3 per cent. It is also observed that nearly 6 per cent of households reported to own auto-rickshaws which are meant for rental hiring. Some of the DNTs who have settled down in the villages own small pieces of agricultural land and residential sites which are allotted by the State.

A very large number of households depend on traditional tribal occupations such as acrobatics, entertainment, snake charming, bear dancing, sooth saying, seeking medical herbs, manufacturing liquor, cattle rearing, mat weaving, black smithy, tantric practices, hunting and begging. As these occupations, by and large, are degrading and not remunerative enough, over 80% of them do not wish to engage any more in their traditional occupations. However, we also observed that the new jobs such as selling plastic pots or running auto-rickshaws are becoming more popular among the members of these communities.

Usually, Nomads are not allowed to take decent jobs on account of their stigmatized background. Almost all the respondents stated that the mainstream people are suspicious and reluctant to provide decent job opportunities. Therefore, these days, the nomads are hiding their identities, and migrating to other districts and other States for seasonal works like sugarcane crops and rubber plantations as in Kerala. In addition to that, they also work as wage labourers in distant towns and villages.

Based on the household expenditure by using the official poverty line cut-off expenditure of about Rs. 30,000 per annum per family, the poverty line was calculated. The data showed that the incidence of poverty among DNTs in Karnataka among the 10 tribes under study is higher (about 58%) than the national average (37%). Only 51% of households reported to have obtained BPL ration card indicating a grave situation of food security under the Public Distribution System. However, in terms of accessing scholarships for educational schemes, 73% reported to have obtained scholarship once or more than once.

For DNTs, it is very important to obtain the identity card pertaining to scheduled tribes or scheduled caste status to access the government schemes designed for the DNTs. The Government of Karnataka, by a policy decision, has included some of these tribes in the Scheduled Castes (SCs), and Scheduled Tribes (STs) categories, and some in the Other Backward Class category. However, it was difficult for a substantial number of people (30%) to obtain the certificate pertaining to their identity. The issue was particularly acute among the members of DNTs such as *Buduga Jangam* whose identity has been used by other high caste members to avail government benefits.

Literacy rate was a little above 30%. During our survey, we found that the proportion of children who are out of school is high at 57%, and that 40% of the households have no literate persons in the house, which is far below the state average. There was a significant difference in their attitude towards education among the DNT communities. Some DNTs like *Korama, Lambani, Jogi, and Kanjarabhaat* are sending their children to schools. However, the tribes like *Pardhi, Maang Garudi, and Budga Jangam* still keep their children away from school so that the latter too could work and supplement the family income. Thus, the livelihood options are strongly linked with this pattern.

Political representation of these communities is insignificant at the state and district level. Only at the panchayat level, in 31 villages of 15 districts, they were elected at the gram panchayat level. At the state level, their representation is weak since only one person from the DNT community has been elected to the state assembly in the entire State. Perhaps their low level of political representation is the reason why these communities have inadequate access to government schemes, housing and facilities relating to water supply, electricity, toilets, school education and access to caste certificate.

**Table 6: Social and Economic status of the respondents**

S. No	Social and Economic status	In percentage
1.	Public/ private salaried jobs	0
2.	BPL (< 30,000 expenditure per year)	58
3.	Ration Card	51
4.	Difficulties in obtaining certificate	30
5.	Literacy	30
6.	No scholarship for children	27
7.	Dropout	57

Source: Primary data from the survey

### **III) Continued Discrimination and Stigma**

Stigma and shame are complex and deep emotions (Engelen, 2009). The way these emotions are experienced are through culturally defined institutions (Pellissery and Mathew, 2014). Both the “culture-specific values and norms attributed to bearer of emotion” (Casimir & Jung, 2009: 270) construct the nature of shame and stigma.

Stigma, discrimination and exclusion are closely interlinked concepts (Walker et al, 2013), and highly significant in hierarchical societies like Indian society (Gubrium et al, 2013). In Indian society, informal rules are much more important than formal rules (Pellissery, 2013), and the tag of criminality could be extremely stigmatizing. This is because the norms of trust and distrust which govern the informal relations are at risk once the stigma of criminality is attached with an individual or group of people. Stigma related to identity is more serious and grave as compared to the shame that arises out of personal failures, and its impact could be carried over from generation to generation.

There are two important possible effects of such criminality-induced stigma. First, stigmatized communities get discriminated from the public provisions. Pellissery (2005) has shown how identity is an important determinant while accessing government schemes like public works programmes (e.g. NREGA). For groups like DNTs especially which have limited asset base, such public provisions are important for their education, security, food security and employment security. A second impact is what happens to self-esteem (Mathew, 2010). The lowered self-esteem leads to withdrawal from the societal participation, resulting in poor personality development and affecting human capital resources.

### **a) Social Discrimination**

Broadly, the DNTs experience different types of discrimination such as discrimination in school, community institutions, accessing services, place of dining and the discrimination by police and other government personnel.

A large number of DNT students experience discrimination and humiliation in school settings. Primarily, the discrimination is from teachers and humiliation is from peer students. Teachers tend to discriminate when they are from a different community and carry prejudiced views about DNTs. Teachers practice discrimination by enforcing a specific sitting order while serving mid-day meals (reported by 20% of the respondents). The teachers discriminate the DNT children in the sitting order in the classroom (reported by 24% of the respondents). Peer students humiliate the DNT students when they learn about the occupations of DNT students' parents. Primarily, the children from the communities of *Buduga Jangam* and *Maang Garudi* are

reportedly humiliated more by the peers in the schools. Both these experiences have important impact on the educational outcome among the DNTs.

**Table 7. Number of Respondents Reported to have Faced Discrimination in Community Settings (N= 248)**

<b>Discrimination in community setting</b>	<b>Total (N= 248)</b>	<b>Discriminatory Access (In Percentage)</b>
Entry to Temple	95	39
Public Water Tap	137	59
School	116	59
Panchayat/Municipal Office	150	71
Police Station	136	70
Public Health Centre	143	64
Public Transportation	127	67
Hotel	123	66
Public Cemetery	107	56

Source: Primary data from the survey

During the study, many nomadic community members reported that they have experienced discrimination while they attempted to participate in community affairs. Denial of chairs in offices, preventing elected DNT community members to exercise their rights, poor treatment received in health centres, denial of entry to temples, denial to bury the dead in common burial places, being last in the queue while collecting water from public taps are some instances of discrimination faced in public places (Table 3). As many as 71% of our respondents said that the personnel in the Panchayat and Municipal offices are not helpful at all, so are the police. Some 70% of the respondents stated that they did not get easy access to police stations.

Despite the willingness to pay, denial of various services was another form of discrimination. Among these, the service of barber assumes significance. The nomadic men are refused service by the village barbers, and our survey shows that 83% of the respondents were denied service by the village barbers. Similarly, despite their willingness to pay, they were being perceived as nuisance in public transport and commercial places such as hotels. Their alienation was complete with the exclusion from inter-dining practices. Nearly two thirds of the respondents admitted that the mainstream children

do not wish to sit together and even to drink water with their children. Most of the Dalits in the village do not share food with nomads as they are considered strangers, wanderers and polluters. Barely 7% of the respondents admit that food is shared with them by other castes.

Many communities reported that due to the criminality tag, their community members were the first one to be suspected when a theft or violence took place anywhere in the village. The members of *Pardhi* and *Maang Garudi* especially reported that on such occasions, cases have been filed against them or their family members and were often arrested and put behind the bars. More importantly, many members reported that even their children were arrested and harassed by the police. It is evident from the data presented in Table 4 that the police have been over active in arresting and harassing the DNTs. It is not clear whether the DNTs deserve such a treatment. However, all said and done, what follows from this analysis is that even today, the law and order missionary appears to pursue DNT communities as criminals.

**Table 8. Criminal Cases and Harassment (N= 248)**

<b>Criminal Cases and Harassment</b>	<b>Total (N= 248)</b>	<b>In Percentage</b>
Criminal Cases filed against family members	40	16
Anyone from family arrested by police	52	21
Anyone from family put in jail after prosecution	43	17.5
Undergone harassment by police	81	32.7
Children being arrested	7	2.8
Atrocity cases registered against your tribe	130	52.6

**Source:** Primary data from the survey

An important effect of criminal cases being filed against parents is the mental agony of the children. More than 80% of the respondents have admitted that the children get emotionally disturbed when the parents are arrested, and criminal cases are filed against them and the police harassed them.

Along with criminality tag, another reason for stigma was the traditional occupations. However, only about three per cent of respondents said

occupation is the sole reason for being humiliated or for experiencing stigma. It could be the case that the identity of being DNT itself may be stigmatizing.

## **5. Denotified Tribes: Constitutional and Legal Status**

This chapter attempts to develop a holistic understanding and critical analysis of laws and their impact on the denotified tribes, their identity, cultural practices; the role of law for eradication of stigma and discrimination, and ensuring livelihood and other socio-economic rights. This chapter looks into the question as to whether the stigma attached with the identity of the criminal tribe given by the Criminal Tribes Act still continues despite the subsequent de-notification under the Habitual Offender Act 1952 or not. It also attempts to analyse the role of law in criminalising the community folks and to identify and remedy the existing gaps in law and policies.

This chapter specifically reviews international and national instruments such as United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Constitution of India, Supreme Court and High Court's rulings, The Karnataka Habitual Offenders Act, 1961, The Karnataka Excise Act, 1965, The Karnataka Prohibition Act, 1961, The Karnataka Prohibition of Beggary Act, 1975, The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, The Prevention of Cruelty to Animal Act 1960 (PCAA), The Wildlife (Protection) Act, 1972 (WPA), The Protection Of Civil Rights Act, and The Scheduled Caste and Scheduled Tribes (Prevention Of Atrocity) Act.

The chapter is divided into three sub-sections namely, (1) Denotified Tribes: Identity, Culture and Traditional Occupation and Law; (2) Question of Stigma and discrimination: Role of Law and (3) Denotified Tribes and Socio-Economic Rights: Role of Law.

### **I) Denotified Tribes: Identity, Culture and Traditional Occupation and Law**

#### **a) International Standards**

The United Nations Declaration on the Rights of Indigenous Peoples<sup>3</sup> (UNDRIP) guarantees all indigenous people a set of rights. A few of them are quite relevant to be discussed here in relation to the rights of indigenous groups. It expects the state to specifically provide effective

3 General Assembly Resolution No. 61/295, Adopted on 13 September 2007

mechanisms to redress by means of restitution of their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent; ‘and legal recognition and protection to lands, territories and resources.’

Further, the UNDRIP ensures a bundle of cultural rights and other associated socio-economic rights to indigenous communities including ‘right to practice and revive their cultural traditions and customs’ inclusive of maintenance, protection and development of the past, present and future manifestations of their cultures such as visual and performing arts. The Declaration enables the ownership and control over land and resources, which are traditionally owned, occupied or used or acquired<sup>4</sup>, maintenance, control, protection and development of their cultural heritage, traditional knowledge and traditional cultural expressions, as well as manifestations such as medicines, visual and performing arts etc. This is further strengthened by recognition of intellectual property rights over such cultural heritage, traditional knowledge and traditional cultural expressions.

Very importantly, it guarantees them the right to maintain and develop their political, economic and social systems or institutions, security in the enjoyment of their own means of subsistence and development and to engage freely in all their traditional and other economic activities. Furthermore, the indigenous people are entitled to just and fair redress where they are deprived of their means of subsistence and development.

## **II) Traditional Occupations of Denotified Tribes of Karnataka**

Prior to the consideration of the hard questions of national or municipal laws and their impact on the denotified tribes, it is pertinent to understand their cultural occupation to enable to understand their cultural identities. The table given below gives a brief account of their traditional occupations.

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4 Article 26, UNDRIP

**Table 27: Traditional Occupations of Denotified Tribes of Karnataka**

Denotified Tribes	Traditional Occupation
Pardhi / Hikkipikki	Hunting and Liquor Manufacturing and selling
Masana Jogi / Sudugadu Sidda	Hunting, <i>Tantrik</i> Practices, Black Magic, fortune telling and Traditional Medicine
Kanjara Bhaat	Hunting, Begging, Liquor Manufacturing and selling, Artisan (Black smith manufactures weapon/agricultural tools), Keeps Horses, Donkeys and Dogs
Byragi / Jangamas	Budga- Mendicants, Begging, mat-weaving and Folk singers / performers
Maang Garudi	Begging, Snake Charming, Acrobatics, Street Performers, Liquor Manufacturing and selling, Cattle Traders, Cattle rearing/ Pig Rearing, and Robbery / house breaking
Handi Jogi	Begging, Cattle rearing/ Pig Rearing and Traditional knowledge of medicinal herbs
Ghisadi	Artisan (Black smith; manufactures and sharpens agriculture tools)
Dungrigarasia (Bhil)	Hunting
Jogi	Begging
Dombaru	Acrobatics and Liquor Manufacturing and selling

**a) Hunters: the Pardhis (Hikkipikki), Masana Jogi (Sudugadu Sidda) and Kanjara Bhaat and Laws in India**

The Wildlife (Protection) Act, 1972 (WPA) prohibits Hunting<sup>5</sup>. Until 1991, hunting of animals, except Schedule-I animals, was permitted and hunting licenses have been issued by Chief Wildlife Warden for certain purposes including game hunting and wildlife trapping. However, it was completely prohibited afterwards<sup>6</sup> except under certain specified circumstances and special purpose with prior approval of the Chief Wildlife Warden and Government respectively. For example, hunting (capturing) of more than

5 S. 2(16), WPA “Hunting” includes (a) capturing, killing, poisoning, snaring, and trapping of any wild animal and every attempt to do so, (b) driving any wild animal for any of purposes specified in sub clause (c) injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles.

6 S. 9, WPA, As amended in 1991 prohibited 1991 hunting of all animals listed in Schedule I-IV of WPA

21 species of snakes including Cobras and *Kraits*; *Dhaman* (Rat Snake); Indian Cobras including all sub species of genus *naja*; King Cobra; Pythons is prohibited.

The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act 2006 recognises the cultural and economic rights of Scheduled Tribes and forest dwellers except hunting rights. However, the scope of this law is confined to the communities who have settled in the forests such as scheduled tribes and other traditional forest dwellers and to the non-hunting traditional occupations. However, there is a complete legal vacuum so far as the recognition and protection of cultural and economic rights of traditional and nomadic and semi-nomadic communities are concerned.

### ***b) Law and Criminalisation of Maang Garudis***

The lifestyle of Maang Garudis is in direct conflict with laws which term them criminals because they handle wildlife and make income from their cultural practice of snake charming. Despite the fact that these communities are generally respected and acknowledged by Indian society and are part of Indian culture, they are facing marginalisation, exclusion and extinction. This exclusion is not only because of socio-economic reasons, but also due to legislation. The question of exclusion due to wildlife and animal welfare laws has been looked from constitutional and international human rights standpoint. It has also been examined from interpretation and implementation point of view.

India has two laws and a series of rules to deal with the subject of wildlife protection and animal welfare. The Prevention of Cruelty to Animal Act 1960 (PCAA), and WPA are both prohibitory and regulatory in nature. It prohibits and regulates certain trades and practices associated with certain wild animals.

As far as Maang Garudis are concerned, both these laws have both disabling and enabling impact. In a nut shell, they allow Maang Garudis to own, possess and inherit bear and snakes in a regulated manner, but prohibit and punish acquisition, possession and control of wild animals without certificate of ownership; hunting<sup>7</sup>; training, exhibition of and abolition of performer's

7 S. 2(16), WPA "Hunting" includes (a) capturing, killing, poisoning, snaring, and

registration for certain animals; cruel treatment to animals and human use of performing animals in certain circumstances.

**c) Law and Criminalisation of Brewer Communities: Pardhi (Hikkipikki), Maang Garudi and Kanjara Bhaat**

As discussed in the previous chapters, the denotified tribes such as Pardhi (Hikkipikki), Maang Garudi and Kanjara Bhaat traditionally engage in the manufacture and sale of liquor. The laws such as the Karnataka Prohibition Act, 1961 (KPA) and the Karnataka Excise Act, 1965 (KEA) are in direct conflict with their traditional occupation and therefore a critical review and analysis of both laws is very important and relevant to assess their impact on Pardhi, Maang Garudi and Kanjara Bhaat.

The KPA prescribes a mandatory license regime and prohibits the manufacture, possession, transport, sale, purchase and consumption of liquors, toddy tapping and the construction of a brewery, using or keeping material and implements for toddy tapping or manufacture of liquor without a license or permit. Soliciting is also prohibited under KPA. A license is mandatory for tapping of sweet toddy (*neera*) for the purpose of sale or consumption or for the manufacture of jiggery, and a permit is required for its possession, transport or sale. When the manufacture, sale, purchase etc. are done without a license or permit, the law prescribes one year maximum jail and/or fine up to Rs. 1000 on first conviction, and two years maximum imprisonment with fine up to Rs. 2000 for second conviction and so on so forth. Soliciting is also punishable with maximum imprisonment of 6 months and/or fine up to Rs. 1000. The owner or occupier of the premises is also liable for a punishment of maximum 6 months imprisonment and/or fine up to Rs. 1000 if he allows his/her premises for manufacture, sale or purchase of illicit liquor .

On the other hand, liquor is an excisable article under KEA. Therefore, KEA prohibits its manufacture, tapping of toddy from an excise tree<sup>8</sup>, and all the

trapping of any wild animal and every attempt to do so, (b) driving any wild animal for any of purposes specified in sub clause (c) injuring or destroying or taking any part of the body of any such animal, or in the case of wild birds or reptiles, damaging the eggs of such birds or reptiles, or disturbing the eggs or nests of such birds or reptiles.

- 8 Section 2 (11A) 'excise tree' includes the Gulmohwa, cocconut, palm, palmyra, date, bagani or doddasal tree, or any other tree, the fermented or unfermented juice from which toddy or any other liquor can be prepared.

other activities are prohibited under KPA and subjected to a license. The KEA prohibits the sale of liquor without a license, and the consumption of liquor at an unlicensed public place. Like KPA, the establishment of distillery is also prohibited without license under KEA. It is noteworthy that the above denotified communities traditionally brew liquors for their consumption without any license and hence they are always at the risk of facing police action under the KPA.

***d) Budga Jangamas (Byragi), Maang Garudi, Kanjara Bhaat, Handi Jogi: Anti-Begging Law in Karnataka***

The Karnataka Prohibition of Beggary Act, 1975 (KPBA) replaced the Ordinance promulgated to have a uniform law in place of four laws for different areas of the state relating to the prohibition of beggary. The intent behind bringing this legislation is 'to prohibit begging and to provide for the detention, training and employment of beggars, for the custody, trial and punishment of beggar offenders and for the relief and rehabilitation of such persons'. The Act provided a very wide definition of beggar, covering everyone including street performers, street singers, street dancers, fortune tellers and street magicians, except a licensed religious mendicant; performer of religious vow or obligation; authorised public institutions and a needy student collecting alms.

**KPBA provides laws for the constitution of various** institutions at various levels, such as the Central Relief Committee to supervise, administer and control relief; Local Committee for local administration; Receiving Centres to receive and retain beggars and Relief Centres for the detention, relief and rehabilitation.

The law provides unbridled power to police officers to arrest and remove beggars to the receiving centre. It further gives discretionary power to the officer-in-charge of the receiving centre to enquire and release the beggar with or without surety on being satisfied that the arrestee will not beg or otherwise produce him/her before the Executive Magistrate or the Judicial Magistrate or the Metropolitan Magistrate within a period of twenty-four hours of the arrest. The receiving centre can detain a person beyond this period, but not without the authority of a magistrate. The magistrate can release him/her on personal bond of Rs. 1000 and an undertaking not to

commit beggary. However, if the person so released is again produced for a similar offence and found guilty of the offence, he can only be released on a surety of Rs. 2000. Even further, if the person is arrested for begging and brought and proved guilty before a magistrate, the magistrate can convict him and pass a sentence of detention in the relief centre for minimum one year to maximum three years. Refusal to go to an institution and magistrate is punishable with simple imprisonment for a maximum term of one month and/or with fine up to fifty rupees.

### **e) Masana Jogis; ‘Tantrik Healers’ and the Law**

Masana Jogis are Tantrik healers or magic healers. They worship graveyards and perform mysterious rituals to drive bad spirits out of human bodies. People believe that they possess supernatural powers to connect to spirits and help save humans from bad spirits. Unlike ‘witch-doctors’, they do not brand humans as witch, but they allegedly perform black magic to free them from the ill-effects of a bad spirit. In Karnataka, there is no law directly dealing with the regulation of black magic or *tantric healing*, nor does Karnataka have any law to deal with the practice of witch craft. The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (DMRA) regulates advertisement<sup>9</sup> of magic remedies<sup>10</sup>. However, it doesn’t prohibit or regulate such activities directly. Accordingly, the DMRA prohibits misleading advertisement of certain drugs and magic remedies for the treatment of Certain Diseases and Disorders and punishes its contravention with an imprisonment of up to six months and/or fine on first conviction and with imprisonment up to one year and/or with fine on a subsequent conviction.

### **III) Question of Stigma, Untouchability and Discrimination: Role of Law**

All denotified tribes have reported one or the other kind of untouchable and/or discriminatory practices against them. As illustrated in chapter 4, the

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9 Section 2 (a), DMRA- ‘advertisement’ includes any notice, circular, label, wrapper, or other document, and any announcement made orally or by any means of producing or transmitting light, sound or smoke;

10 section 2 (c), DMRA- ‘magic remedy’ includes a talisman, mantra, kavacha, and any other charm of any kind which is alleged to possess miraculous powers for or in the diagnosis, cure, mitigation, treatment or prevention of any disease in human beings or animals or for affecting or influencing in any way the structure or any organic function of the body of human beings or animals;

discrimination faced in educational institutions is equally shocking as access to temples, public water, local bodies, police station, public health centres, public transport, hotel and public cemeteries/funeral grounds. As per table 20, about 1/4<sup>th</sup> (24 per cent) have reported discrimination in schools particularly. 1/4<sup>th</sup> (24 per cent) have reported discrimination in seating order in class rooms, 1/5<sup>th</sup> (20 per cent) during mid day meals, 1/4<sup>th</sup> (22 per cent) in sports and cultural activities, 2/5<sup>th</sup> (38 per cent) reported discriminatory behaviour from teachers and 1/3<sup>rd</sup> reported discriminatory behaviour from classmates. A similar kind of discrimination has been reported in accessing public spaces and services. For example, around 2/5<sup>th</sup> (39 per cent) have reported about restriction in temple entry, 59 per cent in access to public water and schools, around 2/3<sup>rd</sup> in access to public transport and hotel, more than 2/3<sup>rd</sup> (70 per cent) reported discrimination in access to local bodies and police stations and 56 per cent in access to a public cemetery.

As far as atrocity and violence against these denotified tribes continues, every group, except Bhill (Dungri Garasiya), has reported the incidence of violence and atrocity against them. Altogether, more than half of the (52 per cent) respondents have reported about violence. It is the highest against the members of Pardhi, Ghisadi, Jogi and Maang Garudi (See Table No. 24).

On the other hand, all community i.e., around 2/3<sup>rd</sup> (62.5 per cent) perceive that the violence and police harassment is due to their occupation and stigma of being ex-criminal tribes. More than 1/3<sup>rd</sup> (34 per cent) perceive that it is because of their previous criminal caste identity. (See Table No. 24).

To address the question of untouchability and discrimination, two special laws become very relevant to discuss: (1) the Protection of Civil Rights Act, 1955 (PCRA) and (2) the Scheduled Caste and Scheduled Tribes (Prevention of Atrocity) Act 1989 [PoA Act]. The former law deals with the prohibition of untouchable practices. It is a caste-neutral law as it is applicable to all, irrespective of the caste and religious background whereas the PoA Act deals particularly with the acts of violence against scheduled caste and scheduled tribes by others. Unlike PCRA, it gives protection only to Hindu, Buddhist and Sikh Scheduled Castes and Scheduled Tribes. It does not protect SC converts to Islam and Christianity.

## **IV) Conclusion**

The communities which were once branded as ‘criminal tribes’ by the law continue to feel the brunt of being branded as criminal and meet with discriminatory and exclusionary treatment even after the removal of the identity of ‘criminal tribes’. The laws like Habitual Offenders Act tried to relieve such communities from the branding, but didn’t prove so beneficial and effective in giving a new dignified identity and freedom from stigma and persecution. Both CTA and HOA promoted branding, segregation, prosecution and punishment of these communities. Even today, Karnataka has legislated several modern laws to regulate certain trade and practices such as liquor manufacture, but the license regime provided under these laws has been used to persecute these communities for practicing their traditional vocation of brewing liquor for their consumption and sale. The prohibition laws have neglected their cultural practice and invariably come into conflict with their right to practice and preserve their culture. This has been further reinforced by excise laws which has imposed taxes on sale, manufacture and consumption of liquor and failed to distinguish between the commercial liquor manufacturers and traditional manufactures. Further, laws like The Karnataka Prohibition of Beggary Act treat the street performers as beggars and penalise them for the same, but on the other hand give immunity to religious mendicants. The treatment met to traditional performing communities under this law goes absolutely against the conception of Indian culture of the performing arts and performances. It would not be an exaggeration to say that the British treated and branded them criminal, and they are still being branded and criminalised under the garb of prohibition of begging, regulation of sale and production of liquor, tax evasion, wildlife protection and so on so forth. The law has failed to recognise and protect their unique identity, but rather created institutions for their persecution and marginalisation. The law has forced these communities to live a haunted life and still be used as a tool to segregate, brand, prosecute and punish them.

Even the protective laws such as PCRA and POA Acts have not been used by the state to protect the community from discrimination and violence. The awareness about these laws is minimal amongst the community folks and therefore such laws have no use for these communities. Despite clear guidelines on prohibition of torture and violence and arrest, police often abuse their power and misuse laws to harass them.

## **6 Summary and Recommendations**

The objective of the present study was to develop an understanding through empirical evidence of the nature of social exclusion, isolation and discrimination experienced by Denotified Tribes in Karnataka and to study its consequences on their civil, social, economic and political life. This objective was achieved by undertaking a field survey in 15 districts of Karnataka where the DNT communities are densely populated. Based on the analysis of data, the findings are reported in chapters. In this chapter, we attempt to summarise the key findings reported in the earlier chapters, and to make necessary recommendations.

### **1) Summary of findings**

Homelessness and landlessness are two of the striking features of DNTs' socio-economic profile. Though about 50 per cent of them reported to 'own' house, the quality of house is so poor that about 44 per cent of them live in plastic tents. These houses, which are of small dimension, are also overcrowded with most of them accommodating 4–6 persons. Some of them have residential houses on government land and private land, and they live in the fear that they may be evicted any time. Only those who have got houses from Ashraya and Ambedkar Schemes have electricity and toilets. However, unhygienic surroundings and poor access to water have made them susceptible to water-borne diseases, respiratory problems and other similar ailments.

Based on the household expenditure, the incidence of poverty among DNTs in Karnataka among the 10 tribes under study is higher than the state average. High poverty incidence coupled with the unhygienic surroundings of the living quarters deprived of civic amenities makes the quality of their life extremely miserable.

Only 51 per cent of households reported to have obtained BPL ration card, indicating a grave situation of food security. However, in terms of accessing scholarships for educational schemes, 73 per cent reported to have obtained scholarship once or more than once.

Literacy rate was a little above 30 per cent. There was a significant difference between different DNT communities in their attitude towards education. Some DNTs like Korama, Lambani, Jogi and Kanjarabhaat are sending their

children to schools, but the tribes like Pardhi, Maang Garudi, Budga Jangam still keep their children away from school so that the latter too could work and supplement the family income. The livelihood options are thus strongly linked with this pattern. Those communities which prefer traditional jobs and look at children as a source of income by performing traditional jobs have their education at risk.

A very large number of households depend on traditional tribal occupations such as acrobatics, entertainment, snake-charming, bear-dancing, soothsaying, selling medical herbs, manufacturing liquor, cattle-rearing, mat-weaving, farriery, tantric practices, hunting, and begging. As these occupations, by and large, are degrading and not remunerative enough, over 80 per cent of them do not wish to engage any more in these occupations. We also observed that new jobs such as selling plastic pots or driving auto-rickshaws are slowly emerging among many members of these communities. Most of the DNT households do not own any assets except bicycles, mobile phones and television sets.

For DNTs, this was very important to obtain identity card pertaining to scheduled tribes or scheduled castes to access government schemes designed for DNTs. The Government of Karnataka, by a policy decision, has included some of these tribes in the scheduled caste (SCs), and scheduled tribe (STs) categories, and some in the other backward class (OBCs) category. During our survey, 58 per cent households reported to have obtained SC certificate, 19 per cent OBC certificate and 10 per cent ST certificate. The rest of them had no knowledge about the castes/tribes they belonged to. This was difficult for a substantial number of people (30 per cent) to obtain certificates based on their identity. This issue was particularly acute among the members of DNTs such as Buduga Jangam whose identity has been used by other high-caste members to avail government benefits.

The political representation of these communities is almost nought in the Panchayat, the lowest tier of governance. Even at the state level, their representation is weak since only one person from the DNT community has been elected into the state assembly in the entire state.

A large number of DNT students face discrimination and humiliation in schools. Primarily, discrimination comes from teachers and humiliation from

fellow students. These experiences have important impact on the psyche of students and subsequently in their academic performance.

They have experienced discrimination while participating in community affairs. They faced denial of chairs in offices, prevention of elected DNT community members to exercise their rights, poor treatment in health centres, denial of entry to temples, denial to bury the dead in common burial places and other such forms of discrimination. They also faced discrimination in public places by being made to stand last in the queue while collecting water from public taps.

Denial of various services, despite the willingness to pay, was another form of discrimination. In this, the service of barber assumes significance. In some instances, the male DNTs were forced to grow long hair. In some other instances, DNTs helped themselves by cutting their own hair. Similarly, despite their willingness to pay, they were being perceived as a nuisance in public transport and commercial places such as hotels. Their alienation was complete with the exclusion from inter-dining practices. Most of the Dalits in the village do not share food with nomads as they are considered strangers, wanderers, and—ironically—polluters.

Many DNT communities reported that because of the criminal tag, their community members were the first ones to be suspected when a theft or violence took place anywhere in the village. The members of Pardhi and Maang Garudi, especially, reported that on such occasions, cases have been filed against them or their family members who have often been put behind the bars. More importantly, many members reported that even their children were arrested and harassed by the police. The Pardhis and other DNTs have developed a phobia for police that the police might force them to accept false allegations. The constant intervention of the police has hardened these people and generated a feeling of revenge and enmity among them.

Along with criminal tag, another reason for stigma was the traditional occupations. However, separating the causality of the stigma—whether it was due to their occupation or general feelings of suspicion—proved to be difficult. The identity of DNT itself seems to be stigmatising.

## **II) Recommendations**

Based on the above findings, the following recommendations are made to improve the quality of the life of DNT communities in Karnataka:

- Titles to the land could significantly improve the lives of DNT communities. The title could be either by respecting the right to own or right to use. In either form, surety to the title reduces the insecurity of being evicted.
- Housing situation is significantly improved where houses are constructed under government schemes. Therefore, there is an urgency to increase the scale of government housing to reach the homeless DNT households.
- Socio-economic rights and access to basic amenities such as sanitation, potable drinking water, legality of place of stay should be provided to them if they are a nomad.
- Poor hygiene, livelihood systems such as hazardous practices (e.g., acrobatics or engaging with wild animals) increase the health risks. It is important to provide health insurance consciously and pro-actively (e.g., under schemes like Rashtriya Swasthya Yojana) and to enable them to avail health services from nearby hospitals.
- Through, on the one hand, community development programmes assets could be created and improved, on the other hand, the skill-sets to generate income from these assets will stabilise income generation.
- A shift in approach is required. Schemes for mobile ration shops, mobile ration cards, mobile Anganwadi (ICDS) centres, and mobile health clinics should be specially designed to target nomadic tribes. For example Maharashtra and Gujarat have a scheme for mobile ration cards and mobile health clinic. Further, there is a provision of mobile school and mobile Anganwadi under the Inter-state Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979.
- As they are mainly dependent on tradition occupation, there is a need to re-valorise these traditional occupations rather than branding them uncivilised. On the other hand, there is a need to find the function of these traditional occupations for society by improving their skills. Some NGOs

have taken initiatives in this direction. For example, where communities are engaged with dance and drama, they are being trained in acting or theatre.

- DNT community members face problems in getting ration cards, caste certificates, and other identity cards. Therefore, the public offices have to pro-actively visit the settlements of these communities and provide these documents pertaining to identity.
- It is important to provide hostel facilities for the DNT students since their family circumstances tend to force them to engage with traditional occupations and keep moving from place to place. A suggestion to start tent schools in the DNT settlements may be considered.
- Harassment by the police seems to be the major issue. Harassment emerges from prejudiced notions about DNTs primarily, so people need to be sensitised. Moreover, the Supreme Court's Guidelines in the DK Basu case<sup>11</sup> should be made mandatory for the police personnel to follow. This will help to reduce the police-phobia among the DNT communities.
- Tata Institute of Social Sciences, Mumbai, has started the 'Special Cell for Women and Children' functional from more than 25 years on 'Violence against Women' located in the police system<sup>12</sup>. The model has been replicated in seven states in the country. Similar initiatives should be started in Karnataka to address the issue of violence and stigmatisation.
- So far as SCs, STs and DNTs are concerned, the community should be sensitised and made aware about the protective provisions of the law. Representation of DNT is very poor in vigilance committees of POA at block, district and state levels. Their representation should be a mandatory feature in all committees. All DNTs should be brought under the protection of POA. The Constitution of India and Panchayati Raj Act have provided a participative, representative and specialised body for the welfare of SCs and STs, i.e., Social Justice Committees at the various panchayat levels. It should be extended to DNT communities also.

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11 D.K. Basu vs. State of West Bengal; AIR 1997 SC 610

12 <http://www.tiss.edu/TopMenuBar/about-tiss/recent-achievements>

- Similarly, representation of such communities should also be ensured in the national and state commissions for SCs and STs. It is important to include members from DNT communities in these committees.
- The UN's anti-discrimination body asked India to repeal the Habitual Offender Act and effectively rehabilitate the denotified tribes<sup>13</sup>. Since DNT communities are harassed and arrested most often under this Act, there is a need to repeal this Act.
- There is a protective legislation for cultural and socio-economic rights, and discrimination. However, there are gaps in implementing these protective legislations. DNT communities need to be raised at the awareness level to demand such rights so that the implementation gap could be minimised.
- The National policy on tribals doesn't include denotified and nomadic tribes. It creates a complete policy vacuum so far as DNTs are concerned. It is pertinent to have a policy on DNTs.
- The recognition of the cultural rights of these communities in line with India's international obligations under United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is also of utmost importance. Further, the ambiguity of laws, particularly the WPA, PCAA, KPA, KEA and KPBA should be countered by the categorical exemption of the traditional communities from its ambit. The scheduled tribes and other forest dwellers (Recognition of Forest Rights) Act, 2006, recognises the cultural and economic rights of the scheduled tribes and forest dwellers, but there is a complete legal vacuum as far as the recognition and protection of the cultural and economic rights of the traditional and nomadic and semi-nomadic communities are concerned. The enactment of a similar legislation to recognise and protect the cultural and economic rights of nomadic tribes along with a robust rehabilitation scheme covering all the rights and needs of the community including their education, livelihood, health, shelter and affirmative action would prove to be a milestone in ameliorating their low socio-economic status.

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13 <http://www.asiantribune.com/index.php?q=node/4972>

### III) Limitations and Future Research

One of the major limitations of this study, judged against the objectives of this work, was the difficulty faced to establish the causality between criminality stigma that has continued after the tribes were denotified. Our methodology of one-time survey is insufficient and limited to explain this causality. More in-depth with in-case and cross-case examination is required for the same. This study has shown what kind of cases are to be picked to establish this. Therefore, this study could be used as important background information to undertake a further study.

The DNT communities are segregated from other communities. Therefore, fieldwork becomes very difficult among these communities. The field investigators as well as the principal investigator during the fieldwork belonged to the same DNT community. This has huge implications since the prejudices of one's own familiar territory may influence the findings. However, there is no easy solution to this challenge.

This study also does not attempt to generalise its findings to all DNTs in Karnataka. The choice of the ten tribes under study and regions of selection has been partly influenced by access issues. Therefore, a larger study demands more representative sampling.

Stigma and shame is poorly theorised. Wherever such theorisation has occurred, this has to be studied within a specific discipline such as psychology. Due to the policy implications of our study, we have kept our study specific and have not subjected to any discipline. However, theoretical usage of stigma may lead to a different inquiry into the same subject, and different conclusions could be drawn.

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