

**STANDING COMMITTEE ON LABOUR AND WELFARE
(2002)**

(THIRTEENTH LOK SABHA)

MINISTRY OF TRIBAL AFFAIRS

**The Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill,
2002**

TWENTY-SEVENTH REPORT

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2002/ Agrahayana, 1924 (Saka)

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Dr. Sushil Kumar Indora-CHAIRMAN

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31. Shri Jhumuklal Bhendia
32. Shri Debabrata Biswas
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38. Ms. Alkaben Balarambhai Kshatriya
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40. Dr. (Mrs.) Kum Kum Rai
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SECRETARIAT

1. **Shri John Joseph - Additional Secretary**
2. **Shri Ram Autar Ram - Joint Secretary**
3. **Shri J.P.Sharma - Deputy Secretary**
4. **Shri Bhupesh Kumar - Under Secretary**
5. **Shri Jagdish Prashad - Committee Officer**

INTRODUCTION

I, the Chairman of the Standing Committee on Labour and Welfare having been authorised by the Committee to submit the Report on their behalf present this Twenty-seventh Report of the Committee on The Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill, 2002 of the Ministry of Tribal Affairs.

2. The Bill was introduced in Lok Sabha on 2nd August, 2002 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 17th September, 2002 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and Report.

3. The Committee wish to express their thanks to the officials of the Ministry of Tribal Affairs, Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes for tendering evidence before the Committee and placing before them detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

4. The Committee considered the Bill at their sitting held on 11th November, and 3rd December, 2002 and adopted the Report at their sitting held on 11th December, 2002 and approved The Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill, 2002

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI;

**December,, 2002
Agrahayana, 1924(Saka)**

DR. SUSHIL KUMAR INDORA,
Chairman,
**Standing Committee on Labour and
Welfare.**

CHAPTER-1

INTRODUCTORY

1.1 'The Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill, 2002' was introduced in Lok Sabha on 2 August, 2002. The Bill was referred to the Standing Committee on Labour and Welfare on 17 September, 2002 for examination and report thereon. A copy of the Bill as introduced in Lok Sabha is appended (APPENDIX-I). The Bill seeks to achieve the following objectives:-

- (i) Transfer of communities from the list of Scheduled Castes to that of the list of Scheduled Tribes as they had been wrongly included in the list of Scheduled Castes whereas they belong to Scheduled Tribes category;
- (ii) Inclusion of certain tribes or tribal communities or parts thereof or groups within tribes or tribal communities;
- (iii) Addition of equivalent names or synonyms in respect of certain tribes in the existing lists;
- (iv) Exclusion of certain communities from the existing lists;
- (v) Bifurcation and clubbing of entries in the existing lists, based on their ethnic dissimilarity or similarity;
- (vi) Removal of area restrictions in respect of certain specific tribes in the existing lists and imposition of area restrictions in respect of certain castes;
- (vii) Correction in the spellings of certain tribes in the existing lists; and
- (viii) Change of nomenclature of certain tribes in the existing lists.

1.2 The Ministry in their background note furnished to the Committee has stated that as provided in clause (1) of Article 342 of the Constitution "The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or

Union Territory as the case may be”. As per the said provisions, following Orders were issued:-

- a) The Constitution (Scheduled Tribes) Order, 1950.
- b) The Constitution (Scheduled Tribes) (Union Territories) Order, 1951.
- c) The Constitution (Andaman and Nicobar Islands) Scheduled Tribes Order, 1959.
- d) The Constitution (Dadra and Nagar Haveli) Scheduled Tribes Order, 1962.
- e) The Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967.
- f) The Constitution (Nagaland) Scheduled Tribes Order, 1970.
- g) The Constitution(Sikkim) Scheduled Tribes Order, 1978.
- h) The Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

1.3 The above orders have been amended from time to time as provided in clause (2) of Article 342 of the constitution which states that “Parliament may, by law, include in or exclude from the list of Scheduled Tribes, specified in a notification issued under clause (1), any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification”.

1.4 While explaining the criteria for defining the Scheduled Tribes, the Secretary, Ministry of Tribal Affairs stated during evidence that there are five main characteristics for determining the status of Tribe as Scheduled Tribe viz – primitive traits, distinctive culture, geographical isolation, shyness of contact with community at large and backwardness.

1.5 He further added that with the passage of time vast changes have taken place in the social and cultural behaviour, geographical isolation and other characteristics of the tribal people. Besides, the tribals do not feel shy to come in contact with the people of other communities in their vicinity as they were used to in past . There are some areas where

tribals have become more advanced than non tribals and much richer as a result of changes in the agricultural pattern.

Modalities

1.6 As there was no foolproof system for defining the Scheduled Tribes and the same was open to individual interpretation due to which there was a larger demand for inclusion of certain communities in the Scheduled Tribes (Order) 1950. To deal with this burgeoning problem in a systematic manner, the Government have drawn up an elaborate procedure (Modalities) to process claims for inclusion in, exclusion from and other modifications in the orders specifying the list of Scheduled Tribes as per the aforesaid provisions. As per the modalities, all proposals for revision of the list of Scheduled Tribes are processed by the Ministry of Tribal Affairs in consultation with the concerned State Government/Union Territory Administration, the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes. After the proposal is cleared by all the above mentioned agencies, it is circulated among the concerned Ministries and placed for consideration of the Cabinet. After the proposal is approved by the Cabinet, a Bill is introduced in the Parliament for consideration (Annexure-II).

1.7 The Secretary, however, admitted that consequent upon the adoption of these modalities in 1999 the process of deciding the claims has become more rigid but they were trying to bring the problem under a degree of regulation.

1.8 He further apprised the Committee that the last census when the enumeration of caste and tribes was done was conducted in 1931 which is a base document.

1.9 On being asked whether any survey had been conducted by the concerned State Governments to ascertain the existence or non existence of the tribal communities before deciding their inclusion in or exclusion from the Scheduled Tribes List, the Ministry in their post evidence reply stated that some of the State Governments have established Tribal Research Institutes and they get studies done by these institutes before making their recommendation. Some State Governments take the assistance of Sociology/ Anthropology Departments of the universities of that State.

1.10 When asked whether the Registrar General of India have conducted independent survey before rejecting the claims of a particular community recommended by the States/UTs, the Registrar General of India stated during evidence that they had conducted a survey

in Jammu & Kashmir in 1987 with the help of local people but after that they have not been given opportunity to conduct such survey.

1.11 The Committee drew attention towards the fact that there are cases where there is no general agreement among the three agencies e.g. State Governments, RGI and National Commission for Scheduled Castes and Scheduled Tribes and asked whether the Ministry in the larger interest can take an independent view in genuine case. The Ministry in a written reply stated that they have no agency of its own for the purpose. They are not in a position to take an independent view in the matter. As per the law, the Ministry is bound to consult State Governments, the RGI and the National Commission for Scheduled Castes and Scheduled Tribes for deciding such cases.

1.12 The Ministry further informed the Committee that the present Bill has been finalized after all the three agencies have agreed on the proposals for inclusion/exclusion in the List of Scheduled Tribes. When pointed out that since all the formalities have already been completed, how the Ministry will consider any new suggestions/amendments recommended by this Parliamentary Committee, the Secretary, Ministry of Tribal Affairs stated during evidence that any new suggestions/amendments recommended by the Parliamentary Committee would be examined by the Ministry in accordance with the approved procedure (modalities).

1.13 The Ministry of Tribal Affairs furnished the following Statement showing State-wise no. of proposals pending with concerned State Government./Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes.

S.No	Scheduled Tribes ATE/UT	Proposals referred to State Govts./UT Admns.	Proposals referred to RGI	Proposals referred to National Commission for Scheduled Castes and Scheduled Tribes
1.	Andhra Pradesh	43	32	-
2	Arunachal Pradesh	15	4	-
3	Assam	33	71	1
4	Andaman & Nicobar Islands	-	-	-
5	Bihar	24	-	-
6	Chandigarh	14	1	-
7	Delhi	-	-	-

8	Dadra & Nagar Haveli	1	-	-
9	Daman Diu	1	-	-
10	Goa	6	-	-
11	Gujarat	3	-	-
12	Haryana	1	1	-
13	Himachal Pradesh	8	-	-
14	Jammu & Kashmir	11	-	-
15	Karnataka	48	3	-
16	Kerala	25	3	-
17	Lakshadweep	-	-	-
18	Madhya Pradesh	5	10	-
19	Manipur	4	10	-
20	Meghalaya	16	-	-
21	Maharashtra	59	20	-
22	Mizoram	-	2-	-
23	Nagaland	17	-	-
24	Orissa	35	22	-
25	Pondicherry	11	-	-
26	Punjab	12	1	-
27	Rajasthan	10	-	-
28	Sikkim	4	-	-
29	Tamil Nadu	39	3	-
30	Tripura	2	-	-
31	Uttar Pradesh	50	8	-
32	West Bengal	5	-	-
	Total	502	191	1

The details of proposals of Chhattisgarh, Jharkhand and Uttranchal have not yet been bifurcated from those of their parent States.

1.14 In reply to a query that since when these proposals are pending and what are the main reasons for their pendency, the Committee was informed that such details are not available in the Ministry because the last comprehensive revision in the list of Scheduled Castes and Scheduled Tribes took place in the year 1956. The State Governments, the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes are independent agencies which take their own time in submitting their reports.

1.15 During evidence the Committee pointed out that a community having the same social customs, dialects, marital relationship, lifestyle and other similarities have been notified as Scheduled Tribes in one District or State whereas the same community in other District or state has been identified as non-tribe. The Registrar General of India replied

that apart from political boundaries, there are social boundaries. RGI take into consideration sociological and historical factors given by the census before 1951. The Geographical boundaries are politically created boundaries. As there were no political boundaries before 1951, these communities had been notified on the basis of information supplied by the noted Anthropologists who were incharge of census operations.

1.16 The Committee raised a query that due to bifurcation of the states, the tribal communities migrated or settled in other parts of the country where they are not getting the ST status, and asked whether the Government have any uniform policy to identify them as a particular community on all India basis. In response, the RGI stated that many tribal people have migrated from North Eastern States to Delhi for various reasons. However, they have not been conferred the Scheduled Tribe status in Delhi State. He further stated that whether the tribals who migrate from one State to other, should be given Scheduled Tribe status, is a question worth of consideration. He further suggested that if the restriction of boundary is removed, this problem will be resolved automatically. However, this is a question to be decided by Parliament. The Secretary, Tribal Affairs also concurred in this view and stated that for this purpose a common classification at national level may be considered. He further stated that if this Committee and also the Parliament consider it appropriate, necessary amendment in Article 342 (1) can be considered.

1.17 The Committee note that the Government have adopted five main characteristics for determining the status of a tribe as a Scheduled Tribe viz – primitive traits, distinctive culture, geographical isolation, shyness of contact with community at large and backwardness. The Committee further note that with the passage of time significant changes have taken place in the social and cultural behaviour of tribal people and geographical isolation. Besides, the tribals do not feel shy any more to have contact with the people of other communities in their vicinity. There are some areas where tribals are more advanced than non tribals and much richer because of change in their agricultural pattern. With a view to process the proposals for amendment in a systematic manner, the Union Government in June, 1999 laid down a procedure (modalities). As per the said modalities all proposals for revision of the list of Scheduled Tribes are processed by the Ministry of Tribal Affairs in consultation with the concerned State Government/UT Administration, the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes. After the proposal is cleared by all the above mentioned agencies, it is circulated among the concerned Ministries and placed for consideration of the Cabinet. After the proposal is approved by the

Cabinet, a Bill is introduced in the Parliament for consideration. The Secretary admitted during evidence that after adoption of the modalities the procedure has become rather rigid for which they are trying to bring the problem under a degree of control. The Committee therefore observe that the Ministry should review/revise the criteria for identifying the tribes and the modalities so that the tribal communities having same social customs, marital relationships, dialects, lifestyle and other similarities are also considered for evolving a common classification at national level irrespective of area restrictions and the tribal people who migrate/settle in other parts of state/areas due to various circumstances, are not deprived of the benefits of the tribal status.

1.18 The Committee note with concern that 694 proposals were pending with the Ministry of Tribal Affairs, out of which 502 have been referred to the concerned State Government/UT Administration, 191 referred to RGI and one to National Commission for Scheduled Castes and Scheduled Tribes. The Committee note with dismay that the Ministry have no information since when these proposals are pending with State Governments and Registrar General of India. The Committee, therefore, recommend that the Ministry of Tribal Affairs should take up the genuine cases with the concerned State Government/RGI/ National Commission for Scheduled Castes and Scheduled Tribes and impress upon them to clear all the pending proposals expeditiously.

CHAPTER-II Report

2.1 The Ministry of Tribal Affairs have informed the Committee that a number of requests were received from time to time from the State Governments for removing anomalies in the lists by inclusion of certain tribes or tribal communities, equivalent names or synonyms of certain tribes or communities, removal of area restrictions and bifurcation or clubbing of certain entries, etc., imposition of area restrictions in respect of certain castes in the lists of Scheduled Castes, and exclusion of certain castes and tribes from the lists of Scheduled Castes and Scheduled Tribes. Accordingly, the lists of Scheduled Castes and Scheduled Tribes are proposed to be modified for 20 States in respect of 142 communities after consultation with the State Governments concerned, the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes.

2.2 In the present Bill, 142 claims have been included by the Ministry out of which 45 claims are for inclusion in, 16 claims for exclusion from and 81 relate to other modifications in the Scheduled Tribes List. The State-wise details are as under:-

S.No	State/UT	Inclusion	Exclusion	Other Modifications	Total
1	Assam	2	-	5	7
2	Arunachal Pradesh	4	-	1	5
3.	Andhra Pradesh	1	3	11	15
4.	Bihar	3	-	7	10
5	Goa	3	-	-	3
6	Gujarat	-	3	2	5
7	Himachal Pradesh	2	-	2	4
8	Jharkhand	2	-	7	9
9	Karnataka	1	-	2	3
10	Kerala	8	5	13	26
11	Maharashtra	-	2	1	3
12	Madhya Pradesh	-	3	-	3
13	Mizoram	1	-	-	1
14	Manipur	4	-	1	5
15	Orissa	-	-	26	26
16	Sikkim	2	-	-	2
17	Tripura	-	-	2	2
18	Tamil Nadu	-	-	1	1
19	Uttar Pradesh	10	-	-	10
20	West Bengal	2	-	-	2

Total		45	16	81	142
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New Suggestions/proposals for inclusion and modifications

2.3 The Committee have received a number of memoranda from MPs who have requested to include certain communities of their respective States in the list of Scheduled Tribes through the present Bill. Some memoranda have been received from the Members/Ministers from Manipur requesting the Committee to pass the Bill during Winter Session of Parliament 2002 so that the communities already included are conferred the Scheduled Tribes status without further delay. The Committee have considered these memoranda in detail and sought clarification from the Secretary, Ministry of Tribal Affairs as well as Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes. The community-wise details are given below.

A. “Koch Rajbangshi” of Assam

2.4 The Ministry of Tribal Affairs have proposed to include a number of communities in the Constitution (Scheduled Tribes) Order, 1950 as shown in Part-II of Second Schedule (Section 4) which have been identified as tribals, in Assam State. One of the Members of the Committee Shri Madhab Rajbangshi, M.P. raised the issue of Koch Rajbangshi community of Assam which has not been included in the present Bill. He apprised that the ‘Koch’ community in the neighbouring State of Meghalaya which was a part and parcel of erstwhile Assam has been included in the list of Scheduled Tribes.

2.5 The Member has stated that the Union Government had given Scheduled Tribe status to the Koch Rajbangshi community which is an Ethnic tribe of Assam, vide ordinance No.9 of 1996 which was extended three times, however, unfortunately Ministry of Tribal Affairs could not introduce the necessary constitutional ST (P) Amendment Bill before the lapse of the ordinance. The Member has further stated that the matter was also referred to a select Committee of Lok Sabha which had strongly recommended the inclusion of ‘Koch Rajbangshi’ community in the ST (P) List in its Report presented in 1997. He has further informed the Committee that the proposal was also recommended by “The Tribal Research Institute of Assam on 27.02.1995, and that the RGI has also not raised any objection to it.

2.6 The Ministry of Tribal Affairs has further stated that the State Government of Assam in 1986 had informed the Union Government that they did not want any change in the SC/ST Lists. However, in 1993 the Government of Assam suddenly recommended the specification of Koch

Rajbangshi as a Scheduled Tribe. The Ministry has further stated that now the State Government and the RGI have recommended its inclusion in the ST List. The matter is under consideration of National Commission for Scheduled Castes and Scheduled Tribes.

2.7 During evidence, the Secretary Ministry of Tribal Affairs stated that now the National Commission for Scheduled Castes and Scheduled Tribes have also recommended the proposal and the Ministry will circulate it to other Ministries and thereafter it would be placed before the Cabinet for approval.

B. 'Kol' community of Uttar Pradesh

2.8 The 'Kol' community of Uttar Pradesh have been included vide entry No.49 in part XVIII of the Constitution (Scheduled Castes) Orders 1950. Shri Ram Sanjivan, MP in his memorandum submitted to the Committee has stated that there are about 10 to 12 lakh people of the 'Kol' community in Banda, Chitrakoot, Allahabad, Mirzapur, Sonbhadra and Chadoli, Varanasi Districts of Uttar Pradesh who have been included in the list of Scheduled Castes. The people of this community are financially very poor and eke out their livelihood often by collecting minor forest produce. As this community has not been specified as Scheduled Tribe it has deprived them of the required benefits which has amounted to injustice. On the other hand, the Kol community in Madhya Pradesh have already been included in the Scheduled Tribes List and in Bihar and Jharkhand they have been included in the Bill. He has, therefore, requested that the Kol community in entire Uttar Pradesh may be transferred from Scheduled Castes list to Scheduled Tribes List.

2.9 The above facts were verified from the Ministry of Tribal Affairs. The Ministry in their reply stated that presently the Kol community of Uttar Pradesh has been notified as a Scheduled Caste. The Government of Uttar Pradesh, since April, 1981, has been recommending its transfer to the list of Scheduled Tribes of that State. The Registrar General of India (RGI) in his reports, has intimated that the Kols of Uttar Pradesh have in the past, suffered from the stigma of untouchability and accordingly, they were categorized as Scheduled Castes in relation to the erstwhile United Provinces of Oudh and Agra vide the Government of India (Scheduled Castes) Order, 1936. The available ethnographic information on the Kol community and the recent report of the Scheduled Castes and Scheduled Tribes Research Institute, Uttar Pradesh reveals that there is no substantial evidence to indicate that the Kol community of Uttar Pradesh possess tribal characteristics. Therefore, as per the approved modalities, the Kol community is not eligible for its transfer from the list of Scheduled Castes to that of Scheduled Tribes of Uttar Pradesh. The Ministry has further stated that socio-economic conditions of a community

may vary from State to State and within a State from region to region. Hence variation in specification

2.10 During evidence, Secretary Ministry of Tribal Affairs stated that on the basis of Scheduled Castes and Scheduled Tribes Research Institute of Uttar Pradesh, Registrar General of India in its recent report had recommended not to specify the Kol community in the State as Scheduled Tribe. The RGI also concurred in this taking into consideration the sociological and historical factors given by the censuses before 1951 when there was no political boundaries, and also by Anthropologists. RGI further explained that in other States like Bihar Kol community possess tribal characteristics but due to some reasons tribal characteristics are not found in the Kol community in Uttar Pradesh. He further submitted that SC/ST Lists are State specific even irrespective of characteristics. He gave the example of Banjara community which possess similar characteristics in all States, however, in some States they have been included in the ST List, in some other States in the SC List, and in some States they have not been specified in any List.

2.11 The Secretary, Ministry of Tribal Affairs informed the Committee during evidence that recent report of Scheduled Castes and Scheduled Tribe Institute Uttar Pradesh says that there is little substantial evidence which indicates that the 'Kol' community possess the Tribal characteristics.

C. 'Gond' community of Uttar Pradesh.

2.12 The Ministry of Tribal Affairs had proposed to include 'Gond' community of Maharajganj, Siddharthnagar, Basti, Gorakhpur, Devaria, Mau, Ajamgarh, Jaunpur, Balia, Gazipur, Varnasi, Mirzapur & Sonbhadra districts in the Constitution (Scheduled Tribes) Uttar Pradesh, 1967 after entry No.5. Shri Jagannath Singh, Ex-M.P. and President, Akhil Bhartiya Gond Adiwasi Sangh, New Delhi in his memorandum submitted to the Committee stated that the Gonds have been included in the Scheduled Tribes List in most of the States except in U.P. where it has been kept in the SC List. In 1967 the Union Government had introduced Bill No.119 in Parliament which could not be passed due to dissolution of Lok Sabha. He has further submitted that through the present Bill the Gond community alongwith its sub-castes is being included in the Scheduled Tribes list only in 13 districts of U.P. Not including the whole Gond community in the Scheduled Tribes List in all the districts of UP will amount to grave injustice for them. Hence, he has pleaded that the Gond community alongwith its sub-castes viz. Dhurwa, Nayak, Ojha, Pathari and Raj Gond may be included in the Scheduled Tribes List in all the districts of U.P as in case of other States. In support of his request he has cited the recommendation of Backward Classes Commission wherein

the Commission has criticized the policy of UP Government on Gond Tribes and recommended that the same may be included in the Scheduled Tribes List.

2.13 The Ministry in their factual comments furnished to the Committee stated that the Government of Uttar Pradesh vide its letter dated 23.2.1991 had recommended the transfer of the Gond Community from the list of Scheduled Castes to that of Scheduled Tribes. It was also further recommended that its five synonyms namely, Dhurwa, Nayak, Ojha, Pathari and Raj Gond may also be added in the list. The Registrar General of India vide his Report dated 16.6.1993 had concurred in the proposal of Government of Uttar Pradesh. As per the approved procedure, the comments of the State Government and the Registrar General of India were furnished to the National Commission for Scheduled Castes and Scheduled Tribes. The National Commission after detailed deliberations, in which the officers of the Govt. of Uttar Pradesh, the Registrar General of India and Ministries of Social Justice and Empowerment and Tribal Affairs participated, recommended the specification of Gond community as Scheduled Tribe in respect of the districts, which have been mentioned in the Bill. The reason being that the community, which includes the synonyms, is mainly found in the Southern districts of the State only.

2.14 During evidence the RGI stated that many tribal people have migrated from North Eastern States to Delhi for various reasons. However, they have not been conferred the Scheduled Tribe status in Delhi State. He further stated that whether the tribals who migrate from one State to other should continue to be considered as Scheduled Tribes in migrated State, is a question to be considered. If the restriction of boundary is removed, this problem will be solved automatically. However, this is a question to be decided by Parliament. The Secretary, Ministry of Tribal Affairs also concurred in this view during the evidence and stated that for this purpose a common classification at national level may be considered. He further stated that if this Committee and also Parliament consider it appropriate and recommend for necessary amendment in Article 342(1) Government will also consider it favourably.

D. "Pahari" communities of Jammu & Kashmir State

2.15 As per Constitution (Jammu & Kashmir) Scheduled Tribes Orders 1989, "Gujjar", "Gaddi" and "Bakarwal" Communities have been recognised as Scheduled Tribes. Shri Mirza Abdul Rashid, MP (RS) in his memorandum submitted to the Committee stated that the "Pahari communities" residing alongside the Line of Control (LOC) in Jammu & Kashmir have not been conferred with the Scheduled Tribes status despite the fact that Pahari speaking people share most of the

characteristics with Gujjars and Bakarwals except language. All these communities live in same area, are economically backward and poor due to very low literacy. Hon'ble MP has further stated that despite the recommendation of the State Government the Union Government have not yet taken the decision for granting the Scheduled Tribes status to the Pahari speaking people whose population is 5.56 lakh.

2.16 The Ministry of Tribal Affairs in their written reply have stated that the RGI, in his report, has stated that Pahari speakers represent a linguistic group. No ethnic group by the name Pahari existed, even at the time of 1931 census, which was the last census when the enumeration of castes, and tribes was done. During the ethnic survey carried out in Jammu & Kashmir in 1987-88 by the RGI, the ethnic groups returned as Paharis were studied in detail. It was found that these groups include people from different castes and religious communities who are at different levels of socio-economic development. Paharis do not represent an ethnic group but they are a linguistic group. The RGI has opined that it would be extremely difficult to justify the case of the Pahari community being specified as a Scheduled Tribe. The RGI has again examined the claim of Paharis vis-à-vis Gujjars and came to the conclusion that Gujjars are an ethnic group whereas Pahari are a linguistic group. The Gujjars are a pastoral tribe in the State whereas Pahari includes people belonging to different communities. The RGI has again rejected the claim of Paharis.

E. 'Dhangad', 'Dhangar' of Maharashtra

2.17 The 'Dhangad' community has been included in the Constitution (Scheduled Tribes) Orders, 1950 vide entry No. 36 in part IX of Maharashtra State. Shri Pradeep Rawat, MP has pointed out that there is spelling mistake in the community. He stated that instead of 'Dhangad' the correct name of this Scheduled Tribe community is 'Dhangar'. He has, therefore, requested that the Committee may take necessary action to correct the printing mistake.

2.18 The Ministry in their reply has stated that in the State of Maharashtra there are two distinct communities having similar nomenclature, one is Dhangad which is a sub-group of Oraon, a Scheduled Tribe appearing at S.No.36 of the List of Scheduled Tribes. The traditional occupation of this community is cultivation. There is another community known as 'Dhangar' whose traditional occupation is cattle rearing and weaving of woollens. The 'Dhangad' and the 'Dhangar' are two distinct communities having no ethnic affinity at all. The Dhangars who are shepherds have been notified as Nomadic tribe in the State of Maharashtra. Therefore, there is no printing mistake in the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1976 through which the Constitution (Scheduled Tribes) Order, 1950 was amended.

2.19 During evidence, the Committee asked the reasons for not including the Dhangar community in the list of Scheduled Tribes of Maharashtra. The Secretary, Tribal Affairs stated that Dhangad are a sub-group of Oraon tribals. In case of another community, 'Dhangar' the State Government have not recommended their case.

F. 'Halba Koshti' community of Maharashtra.

2.20 The 'Halba' and 'Halbi' communities have been included in the Constitution (Scheduled Tribes) Orders, 1950 vide Entry No.19 in Part IX of Maharashtra State. Shri Namdevrao Harbaji Diwathe, MP from Maharashtra in his memorandum submitted to the Committee has stated that Halba Koshti in Vidharbha is a sub-tribe of Halba and Halbi and do not belong to Koshti community. Hon'ble M.P. has further stated that most of the Halba weavers in old records are found to be Koshti and this fact has been accepted by the Hon. Supreme Court, in the case of State of Maharashtra v/s Milind and others in 2000. He has further submitted that it is not a case of addition or inclusion of new tribe in the schedule, but it is merely an interpretative insertion that they are seeking. He proposed that in the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1996 Second schedule Part XI in the Maharashtra instead of 'Halba and Halbi, it should be read as 'Halba', 'Halbi' including Koshti in Vidharbha.

2.21 The above facts have been verified from the Ministry of Tribal Affairs. The Ministry in their written reply have stated that The Government of Maharashtra has rejected the claim of the Halba Koshti community for its inclusion in the list of Scheduled Tribes of that State. According to the report of Tribal Research Institute, Pune the Halba Koshti is a sub-caste of Koshtis migrated from the Halbi speaking areas of Madhya Pradesh and from Jamindari areas of real Halba tribe. Halba Koshtis have no affinity with Halba Tribe. Tribal characteristic are not found among the people of this caste and hence there is no case of treating them as Scheduled Tribe. Under the approved modalities, the proposal is first recommended by the concerned State Governments/UT Administrations. In the instant case the Govt. of Maharashtra has rejected the claim of Halba Koshti for its inclusion in the list of Scheduled Tribes.

G. 'Medar' Medara' and 'Buddar' communities of Karnataka

2.22 The 'Medar' community has been included in Part-VI of the Constitution (Scheduled Tribes) Orders 1950 vide entry No.37 of the Karnataka State. Shri Basanagouda R. Patil, Minister for State in the Ministry of Textiles have forwarded a memorandum of Shri Y.K. Halapati, President, Akhil Karnataka 'Meda' Girijanangad Kalyan Seva Sangh, Karnataka and requested that the 'Medara' 'Medar' and

'Buddar' which are synonyms of 'Meda' community may be included in the present Bill. He has further stated that the Government of Karnataka have recommended this case five times earlier. The RGI and Tribal Research reports had also recommended this case two times i.e. in 1978 and in 1992.

2.23 The Ministry of Tribal Affairs in their written reply has stated that the Government of Karnataka had recommended for inclusion of Medara, Medari, Guriga and Burud as synonyms of 'Meda' a Scheduled Tribe listed in the Scheduled Tribe List of that State vide its letter dated 19.10.1995. The Ministry has further stated that the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes have concurred in the proposal of the State Government of Karnataka excepting with regard to Medara community. Regarding Medara additional information from the State Government was sought on 31.10.2000. The State Government vide its letter dated 10.1.2001 has informed that no further material is available with them on the community. The State Government has again been requested to furnish their comments in respect of 'Medar' and 'Buddar' communities. During evidence, the Secretary Tribal Affairs assured that he will get the issue reviewed.

H. 'Bhatara' community of Orissa

2.24 The Ministry of Tribal Affairs have proposed to insert 'Bhotra' 'Bhatra', 'Bhattara' and 'Bhotora' communities of Orissa in Part-XII of the present Bill. Shri Parshuram Manjhi, MP (LS) has requested to include 'Bhatara' community which is synonym to the 'Bhottada' and 'Dhotada' in the proposed Amendment Bill.

2.25 In their written reply the Ministry of Tribal Affairs have stated that the proposal to include Bhattara has already been included in the Bill which is under examination by the Standing Committee. Since there is a variation in the name of the community suggested by the Hon'ble MP and the community figuring in the Bill, a copy of the letter has been sent to the State Government of Orissa for their comments in the matter.

2.26 The Secretary, Ministry of Tribal Affairs informed the Committee during evidence that they have received a communication from the Government of Orissa stating that the State Government in consultation with the Tribes Advisory Council held on 30.10.2002 have been pleased to recommend the communities 'Bhatara', 'Jhodia', 'Jhodia Paroja', 'Oram', 'Uraon', 'Anati Dora', 'Enati Dora' for inclusion in The Constitution (Scheduled Tribes) Order in respect of the State of

Orissa. The proposal will be processed further as per the approved modalities.

I. “Puran” “Bhanj Puran” and “Tamudia Puran” of Orissa

2.27 Smt. Promila Bahidar, M.P. in her memorandum submitted to the Committee stated that the Government of Orissa had recommended to include “Puran” “Bhanja Puran” and “Tamudia Puran” of Orissa State in the list of STs. Despite the opinion of Research Institute of SC/ST, and the Backward Classes of Minorities of the Government of Orissa, these communities have not been included in the list of STs.

2.28 The Ministry of Tribal Affairs in their reply have stated that the Government of Orissa had recommended inclusion of Puran community in the list of Scheduled Tribes of that State. The Registrar General of India (RGI) vide his report dated 16.11.1995 rejected the claim of Puran community on the grounds that it does not possess tribal characteristics. As per approved modalities, the comments/observations of the RGI were conveyed to the State Government for reviewing or further justifying their recommendation. The State Government vide its report dated 19.10.2002 has furnished additional information in respect of Puran community, which has been sent to the RGI on 2.12.2002 for their examination and report.

J. ‘Bodo Kacharis’ community of Assam

2.29 Shri Urkhao Gwra Brahma, M.P. raised the issue of ‘Bodo Kacharis’ community of Assam which has not been included in the present Bill. He stated that the Tribals of Assam have been divided in two categories i.e. Tribals living in plains and Tribals living in hilly areas. Despite the recommendations of Karbi Anglong Autonomous Council, Assam the ‘Bodo Kacharis’ community living in hilly area have not been conferred the ST status.

2.30 While responding to the queries of the Member, the Secretary, Ministry of Tribal Affairs stated during evidence that the Registrar General of India has concurred in the proposal of the Government of Assam to specify ‘Boro Kacharis’ as Scheduled Tribe in relation to the autonomous districts of that State and the matter is presently pending with the National Commission for Scheduled Castes and Scheduled Tribes. When asked about the reason for pendency of the issue of ‘Bodo Kacharis’ of Assam, the officials of National Commission for Scheduled Castes and Scheduled Tribes stated that in the autonomous district, the community is shown as ‘Boro Kacharis’ whereas in the report of the Government of Assam it is ‘Bodo Kacharis’ and in the list of Assam this word is ‘Boro’. So there is a confusion as to which is the correct one. He

further added that every communication give a slight deviation because the spelling itself is very important aspect.

2.31 The Committee note that the 'The Scheduled Castes and Scheduled Tribes Orders (Second Amendment) Bill, 2002' relates to amendment of Scheduled Tribes lists of 20 States and Union territories covering 142 communities. The changes proposed are of three categories, viz., inclusion of 45 new communities, exclusion of 16 communities and modifications of synonyms, area restrictions and merger in respect of 81 communities. The Committee further note that as per the modalities approved by the Cabinet Committee in 1999 for deciding claims for inclusion in, and exclusion from the list of Scheduled Tribes, all proposals for modifications in the list have been duly processed by the Ministry of Tribal Affairs in consultation with the concerned State Government/Union territory Administration, the Registrar General of India and the National Commission for Scheduled Castes and Scheduled Tribes. The Committee observe that the proposed amendments contained in clauses 3 and 4 (First and Second Schedules) of the Bill have been duly processed as per approved modalities. The Committee, therefore, approve the amendments in the Bill in its entirety.

2.32 The Committee note with concern that the 'Koch' community in the neighbouring State of Meghalaya which was a part and parcel of erstwhile Assam has been included in the list of Scheduled Tribes whereas the 'Koch Rajbangshi' of Assam has been deprived of the benefits of Scheduled Tribes status despite the recommendations of the Select Committee of Lok Sabha in 1997. The Ministry has stated that the Government of Assam and RGI had recommended for their inclusion, but the National Commission for Scheduled Castes and Scheduled Tribes initially did not favour its specification as a Scheduled Tribe. Now the Committee have been informed that the National Commission for Scheduled Castes and Scheduled Tribes has also agreed to include this community in the list of Scheduled Tribes. The Committee, therefore, recommend that urgent steps should be taken to include 'Koch Rajbangshi in the list of Scheduled Tribes of Assam.

2.33 The Committee are concerned to note that despite the recommendations of the State Government of Uttar Pradesh since 1981, the 'Kol' community of Uttar Pradesh has not been transferred from the list of SCs to that of STs. Similarly the 'Gond' community is being included in the List of Scheduled Tribes through the present Bill only in 13 districts of Uttar Pradesh whereas in the remaining districts this community has been included in the List of Scheduled Castes. The Committee also note that Registrar General

of India has rejected the claim of 'Kol' community in Uttar Pradesh on the ground that in past history they suffered from the stigma of untouchability and therefore, they have been categorised as Scheduled Castes . In the opinion of the Committee it appears very anomalous that 'Kol' community in adjoining states of Madhya Pradesh, Bihar and Jharkhand are listed in the Scheduled Tribes List, like wise the 'Gond' community is restricted only to 13 districts of Uttar Pradesh. The Committee feel that keeping in view the similarities in their social customs, marital relationships, dialects and behavior the 'Kol' community should be included in the ST List of Uttar Pradesh. Similarly the 'Gond' community should also be conferred ST status throughout the U.P State instead of restricting it to 13 districts.

2.34 The Committee note that the Karnataka Government had recommended for inclusion of 'Medara' 'Medari', 'Gouriga' and 'Buruda' as synonyms of 'Meda' community as Scheduled Tribe indicated at Sl.No.37 of the List of Scheduled Tribes of Karnataka. The Committee further note that "Medari", 'Gouriga' and 'Buruda' have been included in the Bill whereas 'Medara', 'Medar' and 'Buddar' which are being claimed as synonyms of 'Meda' community have been left out. The Committee note with grave concern that although their proposals were earlier recommended by Registrar General of India in 1978 and 1992 but they are still shuttling between the State Government and the Ministry on one pretext or the other. The Committee, therefore, urge the Government to process the matter expeditiously and consider the inclusion of 'Medara', 'Medar' and 'Buddar' communities as synonyms of 'Meda' community in Karnataka.

2.35 The Committee have received a suggestion that 'Halba Koshti' community in Vidarbha be included as synonym of 'Halba' and 'Halbi' indicated at Sl.No.19 in the Scheduled Tribe List of Maharashtra. The Committee note that the proposal of 'Halba Koshti' has been rejected by the State Government on the plea that the tribal characteristics are not found among the people of 'Halba Koshti'. The Committee also note that the 'Halba Koshti' who are basically weavers are strongly claiming marital relationship and identical social customs with 'Halba' and 'Halbi' The Committee, therefore, desire that the Ministry should pursue their case with the State Government of Maharashtra , Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes for inclusion in ST list.

2.36 The Committee note that there are various communities which are synonyms to each other but have not been included in the

present Bill. For example in the case of ‘Dhangad’ and ‘Dhangar’ communities of Maharashtra which are similar to each other but the State Government have rejected their claim stating that ‘Dhangad’ and ‘Dhangar’ are two distinct communities having no ethnic affinity. Similarly ‘Bhatara’ community of Orissa is synonym of ‘Bhattada’ and ‘Dhotada’ but have not been included in the Bill due to variation in the name of the community. The Committee are of the opinion that if a community have the similar characteristics, their claims should not be rejected on the flimsy grounds like involving correction in the spelling of certain tribes. The Committee, therefore, recommend that the Ministry should take up the matter with the State Government to remove the anomaly in the nomenclature of these communities.

2.37 The Committee note that the inclusion and modifications in the List of Scheduled Tribes is an on-going process. Therefore, any new suggestions would be dealt with as per the approved modalities. The Committee have received the following new suggestions for inclusion in the List of Scheduled Tribes;

- (i) Puran, ‘Bhanj Puran’ and ‘Tamudia Puran’ communities of Orissa.
- (ii) ‘Bodo Kacharis’ community of Hill District of Assam.

The Committee further note that the proposal of ‘Puran’, ‘Bhanj Puran’ and ‘Tamudia Puran’ after obtaining additional information from the Orissa Government, has been referred to Registrar General of India for further consideration. Similarly the proposal of ‘Bodo Kacharis’ of Hill Districts of Assam have been cleared by Registrar General of India but the same is still pending with the National Commission for Scheduled Castes and Scheduled Tribes. The Committee, therefore, recommend that the Registrar General of India and National Commission for Scheduled Castes and Scheduled Tribes may be persuaded to process these cases expeditiously so that these communities are also included in the list of Scheduled Tribes of their respective states.

2.38 Pahari communities of Jammu and Kashmir State

The Committee note that the “Pahari” communities residing alongside the Line of Control (LOC) in Jammu and Kashmir who share most of the characteristics with Gujjars and Bakarwals already included in the S.T. List, except language have not been conferred the Scheduled Tribes status. The Committee have been informed that no ethnic group by name of “Pahari” existed, even at

the time of 1931 census, which was the last census when the enumeration of castes and tribes was done. The Registrar General of India has also rejected their claims twice stating that 'Pharis' do not represent an ethnic group but it refers to linguistic group of different castes and religious communities. The Committee are of the view that the royalty and support of the people living alongside sensitive border areas of Jammu and Kashmir are very crucial and important in the present security scenario and as such, they deserve to be given some recognition and benefits as a reward for their positive role in maintaining the national unity. The Committee, therefore, desire that RGI in coordination with State Government and public representatives of Jammu and Kashmir may conduct a fresh survey of the 'Pahari' communities residing alongside the Line of Control to ascertain whether there are some Pahari communities who fulfill the criteria laid down by the Government so that such communities can be conferred ST status.

NEW DELHI:

December, 2002
Agrahayana, 1924(Saka)

DR. SUSHIL KUMAR INDORA,
Chairman,
Standing Committee on Labour and
Welfare.

