

Statement made by Mr Jayant Prasad
on behalf of the delegation of India in the
Working Group on Indigenous Populations, Geneva
6 August 1984

Madam Chairperson,



Since it is the first time that I am speaking here allow me to congratulate you for your very able guidance of this Group and the democratic manner in which you have always conducted its proceedings. My delegation would like to particularly felicitate you and the members of the Working Group for your seminal contribution to the ongoing process of development of international standards concerning the rights of indigenous populations.

It is the view of my delegation that this exercise should continue in harmony with existing international instruments in such a manner that the rights enshrined in the Covenants - which have universal application - are in no way infringed. The human rights and fundamental freedoms contained therein are equally applicable to indigenous peoples - and any weakening or abridgement of these would not therefore be welcome.

Specifically, with reference to the draft principle no.2 developed during the fourth session of the Working Group, its scope should expressly exclude "positive discrimination" in favour of indigenous populations. For example, in India, in view of the prevailing social reality that some sections of society have for historical reasons remained backward, the Constitution enshrines special provisions in favour of these backward sections, specifically the scheduled castes and scheduled tribes, in order to help them attain equality in real terms. These

provisions and the special measures and programmes undertaken by the Government are not in any way violative of the principle of equality but, in effect, allow for greater equality, as they aim at translating equality in practice to benefit all sections of the people of India, including those who were relatively neglected and backward.

As regards the question of the right of equality for the indigenous peoples on par with others, if they were to be given more favourable treatment than others by constitutional, legal and administrative means, that should not be construed as discrimination. My delegation would, therefore, support the idea contained in the Australian Government's comments on the Draft Principles which proposes the use of the formulation "adverse discrimination" as distinct from positive discrimination in the context of ensuring truer equality.

While I have the floor Madam Chairperson, I would like to comment on the statement made last evening by Professor A.K. Kisku and Dr. *Munda*, the Vice-Chancellor of the University of Ranchi representing the Indian Council of Indigenous Tribal People. The Council is represented in the Working Group this year by three other distinguished members from India, including a Member of Parliament.

An assertion was made by the Council that from the historical, anthropological and sociological points of view the 60 million tribal people of India have, and I quote:

"distinct social, economic, political and territorial identities".

Unquote

Moreover, the term 'Adivasis' used commonly in India to designate the scheduled tribes has been equated with indigenous people.

The specific designation of scheduled tribes in India has been made in keeping with the developmental requirements of certain sections of our population in favour of whom a system of positive discrimination is followed by Government in order to secure for them special privileges and to ensure their accelerated progress.

The Constitution Order of 1950 had declared 212 tribes located in 14 states as scheduled tribes. This number has since grown. It is noteworthy that no single criteria has existed in India to distinguish the tribal from the non-tribal populations. Anthropologists, social reformers, Government officials, census commissioners and even the noted scholar Dr. G.S. Ghurye in his seminal study on the scheduled tribes has pointed out how religion, occupation or racial features have proved inadequate when attempting to distinguish the tribal people from non-tribal population in India. To say which section of India's population is indigenous or not would be an even more difficult task.

Since this conceptual issue has been raised repeatedly in the Working Group over the past years may

I, Madam Chairperson, seek your indulgence to elaborate upon what I have just said. Professor Andre Beteille, an eminent sociologist, in an important study on the definitional aspect of this question published in 1960 had stated as follows:

"In the beginning, nobody bothered to give a precise meaning to the term tribe. This did not create very much confusion so long as the groups which were dealt with could be easily located and differentiated from groups of other types. By and large, this was the case in Australia, Melanesia and in North America, the regions which were first studied by the anthropologists.

In India, and also to a certain extent in Africa the situation is conspicuously different. In this country, groups which correspond closely to the anthropologists' conception of tribe, have lived in long association with communities of an entirely different type. Except in a few areas, it is very difficult to come across communities which retain all their pristine tribal characters. In fact, most such tribal groups show in varying degrees elements of continuity with the larger society of India".

He went on to state that in India hardly any of the tribes exist as a separate society and that they have all been absorbed, in varying degrees, into the wider society of India. The ongoing process of absorption has not been recent but dates back to the most ancient times. No tribe in India has a completely separate political boundary. The larger tribes of Chhatta-Nagpur and Oraons and the Santhals are territorially dispersed. The linguistic

boundary has also been breaking down. The Bhils who number over 5 million and live in Central India and constitute one of the largest tribes have been using a dialect 80 per cent of which is derived from Sanskrit, which is an Indo-Aryan language. Moreover, distinctiveness on grounds of social, economic, political and territorial identities or characteristics in certain specific cases could apply to several other categories of people in India, not only to tribals. Without extending this academic debate any further I wish to state for the record that the term indigenous population, according to the understanding of our delegation, cannot be equated with the tribal or scheduled tribe population in India. It has already been stated earlier by members of the Working Group that the question of minorities should not be confounded with that of indigenous populations. The Government of India also does not recognise the right of self-determination of any group of people within India. Right to self-determination is applicable in the context of colonial situations or foreign occupation and not otherwise. India is a mosaic of different religions and cultures. To borrow a phrase from Mr. Justice ~~Lokto~~^{Lacks'} excellent presentation on behalf of the Independent Commission on International Humanitarian Issues on the first day of the current session of the Working Group, India provides a microcosm of the multi-cultural and the multi-coloured world. Peoples of many different faiths

and persuasions, creeds, religions and ethnic groups have joined together in building the world's largest democracy, a democracy in which civil and political rights are guaranteed to all without any discrimination on grounds of creed or community. For all this variety India constitutes one nation state and all its constituents are an integral part of the country.

The Council in its presentation had also stated that tribal people of India are reduced to a colonial situation and are dominated by values and institutions maintained by the dominant ruling group. Members of the Working Group are aware of political and social diversity of India. From the distinguished membership of the Council present here it was difficult to expect such a sweeping generalisation. Professor Kisku himself who spoke on behalf of the Council has been an erstwhile member of the ruling party and a distinguished minister in the Central Government for just less than a decade. In different states of India governments of all shades and ideological opinion enjoy power. In the north-eastern states that is Meghalaya, Arunachal Pradesh, Mizoram, Tripura and Manipur where the population is pre-dominantly tribal, tribals themselves are running government and administration. In Tripura and the State of West Bengal where there is a sizeable tribal population, the government is constituted by the Communist Party of India (Marxist). Where is the question of tribals in India living in a colonial situation and being completely

dominated by the dominant ruling group as the Council has made out in its statement?

The fact that tribal communities have not kept pace with the rest of Indian society in terms of their development is openly acknowledged. It is to deal with this unevenness in their development that Pandit Jawaharlal Nehru, the first Prime Minister of India, whose contribution to tribal welfare has been handsomely acknowledged by the Council, paid particular attention to tribal welfare programmes. This particular emphasis on tribal welfare has been continued and strengthened recent years.

The Constitution itself prescribes protection and safeguards for the scheduled tribes, and other weaker sections either specially or by way of insisting on their general rights as citizens with the object of promoting their educational and economic interests and of removing the social disabilities. Some of the main safeguards are:

- (v) the curtailment by law in the interests of any scheduled tribe, of the general rights of all citizens to move freely, reside and settle in any part of India.
- (vi) Permitting the state to make reservation for the backward classes including scheduled tribes in public services in case of inadequate representations and requiring the state to consider their claims in the making of appointments to public services.
- (vii) Reservation of seats in the Lok Sabha and the State Legislatures.
- (viii) the setting up of tribal advisory councils and separate departments in the States and the appointment of a special officer at the centre to promote their welfare and safeguard their interest.
- (ix) Special provision for the administration and control of scheduled and tribal areas.

One of the major concerns of Indian planning has been the welfare and development of the weaker sections of society, and among them more especially that of the scheduled castes, the scheduled tribes and the denotified, nomadic and semi-nomadic tribes who constitute nearly one quarter of the total population. These groups have, for historical reasons, remained socially and economically backward, and hence concerted efforts have been made under the plan to raise their social and economic status.

The progress registered during the last 39 years in the development of scheduled castes and tribes and other disadvantaged groups is considerable when compared to their conditions at the time of independence. The existing pace of development has to be assessed against the background of social and economic backwardness, reinforced by centuries of apathy and India's recent history of colonial rule and the inherent constraints on the resources of a developing economy.

One last point, Madam Chairperson. Land has been acquired by Government for developmental projects of national importance and in the general public interest from all sections of the Indian people, it is not that the tribal population alone has been subject to special privations. Also, as an effect of industrialisation and the expanding national economy, large sections of the tribal population have been entering into the productive system which tends to break down traditional ties, again not only within tribal communities alone but among all traditional social groups in India. The problem of social deprivation and exploitation is not linked to a tribal or non-tribal identity, these are common problems for which there can only be common solutions even if they may be especially tailored to take care of special situations.

I thank you, Madam Chairperson.