

TRIBAL COMMUNITIES IN INDIA WITH SPECIAL REFERENCE TO THE HUMAN RIGHTS AND REALITIES

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Abstract

In the equality, supremacy and exploitation culture, tribal society in India has been the most marginalized group. Their socio-economic and political rights are on the breadline. Even after decades, India is led by the unchanged condition of tribal communities. They, particularly tribal women, were subjected to violations of fundamental human rights and state brutality. Like the Dalits of mainstream society, tribal groups have experienced alienation and social inequality. Understanding contemporary tribal cultures needs fundamental respect for the historical structures that have determined the course of successive shifts in the tribal communities' ideological, political, economic and socio-cultural lives. In the constitution, the Indian democratic state grants many laws where the interests of tribal peoples are protected and for which social justice is decided. In this respect, however, the democratic experiment has not been successful. There is therefore a surge in Tribal movements for their rights in the region. All of India's tribal people have one thing in common — all of them have a legacy of injustice. Within the broader context of human rights in general and how tribal rights in particular were violated in India, the present paper discusses.

Keywords: Tribal society, Marginalized Groups, political rights, Human rights, Tribal culture, etc.

INTRODUCTION

The tribal population in India, though a numerically small minority, represents an enormous diversity of groups. They vary among themselves in respect of language and linguistic traits, ecological settings in which they live, physical features, size of the population, the extent of acculturation, dominant modes of making a livelihood, level of development and social stratification. They are also spread over the length and breadth of the country though their geographical distribution is far from uniform. A majority of the Scheduled Tribe population is concentrated in the eastern, central and western belt covering the nine States of Odisha, Madhya Pradesh, Chhattisgarh, Jharkhand, Maharashtra, Gujarat, Rajasthan, Andhra Pradesh and West Bengal. About 12 per cent inhabit the Northeastern region, about five per cent in the Southern region and about three per cent in the Northern States.

Groups and communities identified and enumerated as tribes during British rule came to be reclassified as Scheduled Tribes after the Constitution was adopted in 1950. The Constitution, as per Article 342, provided for the listing of these groups in the Schedule so that certain administrative and political concessions could be extended to them. Thus, a distinction was drawn in the form of tribe as a social and cultural entity and tribe as a politico-administrative category. However, there were groups and communities who belonged linguistically, socially and culturally to the same community but found themselves listed in some States of the Indian Union but not in other, often neighboring States. Similarly within the State, the same community may have found itself listed in some regions but not in others.

The Constitution did not define the criteria for recognition of Scheduled Tribes and hence the Lokur Committee was set up to look into this issue. The Committee recommended five criteria for identification, namely, (1) primitive traits (2) distinct culture, (3) geographical isolation, (4) shyness of contact with the community at large and (5) backwardness. However, some of these criteria carry forward certain paternalistic and pejorative connotations from the colonial era. Features associated with the idea of 'indigenous peoples' may serve as a useful pointer in this regard, although the term 'indigenous' is more accurate in the context of North and South America and Australia. In South Asia, this term has been questioned since it assumes a theory of Aryan invasion. However, many tribal communities employ the term 'adivasi' (original inhabitant) as a political term of self-reference – although this term is not recognized by the Government of India. While tribes have a distinct culture and history, they also share commonalities with other marginalized sections of Indian society, such as the lack of adequate political representation, economic deprivation and cultural discrimination. Beyond their marginality, however, the many positive features of tribal society must be appreciated and it must be recognized that non-tribal people have much to learn from the richness of tribal cultures and systems of knowledge.

TRIBAL PEOPLE: INDIANS PERSPECTIVE

And before the arrival of the colonial government, the tribal people in India had a long history. Within their independent sovereign structure, the tribal communities that existed prior to colonial invasion had their own privileges and duties. There was also the presence of foreign missionaries in the past and of the dominant culture through the fundamentalist powers in the recent past, apart from the encounter of the Tribal with the different civilizations (Minz, 1993). There is little doubt that Tribal communities continue to be India's most oppressed community. Social growth metrics suggest that tribal people have life expectancies that are decades shorter than those of non-tribal. Any other social metric, be it education and achievement levels for health facilities, quality of employment or standard of housing, sees tribal populations enjoying less opportunities and experiencing higher burdens than the rest of the Indian population.

RIGHTS OF TRIBAL SOCIETIES' INTERESTS ARE AT STAKE

The birth rights of any human being are human rights and they form an important part of humanity's socio-cultural structure all over the world. They are vulnerable, however, to violence and infringement. Human rights can be interpreted in laws, constitutions, and international conventions as abstract norms and values preserved. At the same time, human rights are cultural values that, in reaction to social change or controversy, are slowly emerging (Nair Ravi, 2006). The paper discusses how human rights have become important to the conditions of tribal lives and how we can draw on the international treaties and agreements that have accomplished this mission in order to understand the aspects of the human rights of tribal in Indian society. The human rights of tribal provide basic insights into the causes, manifestations and implications of abuses of human rights faced by tribal groups.

In India, the last quarter of the 20th century has been a witness to the increasing awareness of the position and importance of human rights due to pressure from various collective movements. It is clear that this human rights issue is rooted in the denial of life and freedom that was an omnipresent feature of the emergency (1975-77). Some of the prevailing images that survived are the mass arrests of the leaders of the opposition and the targeted apprehension of those who might threaten an authoritarian state. The campaign for civil

liberties was a result of the crisis. On the agenda of the civil rights movement was the avoidance of subjective incarceration, imprisonment, the non-transparent use of the judicial process and custodial abuse. Human rights issues have been illustrated by protests of peasants, tribals, Dalits, women, students and working class protests for the past two decades (Shah, 2004) Thus, on the national and international agenda, human rights have become prominent. In line with the United Nations Declaration, the Indian Constitution also repeats that, on grounds of birth, location, race, religion, caste, the State will not distinguish against any person, and accepts that the promotion and protection of all human rights is a legitimate concern of the State. These include the universal rights of survival to health care , housing, food and social security; the right to work; the right to education; and the right to engage in society's cultural life. However, there is a significant gap between the ideal of the human rights laws and the fact of ongoing gross human rights abuses of Tribal groups in India (Poutler, 1998)

NON-TRIBALS LAND ALIENATION

The constitutional protections as set out in the Fifth Schedule of the Constitution of India and various other state-level laws banning the transfer of the lands of the Tribal groups, among others, have failed to prevent the Tribal people's widespread land alienation. The Land Acquisition Act-1894, in which the government can exercise its sovereign power to take away any land in the name of public purposes, has been the central cause of land alienation.

In Andhra Pradesh, the non-tribal have also illegally occupied hundreds of acres of land belonging to tribal groups by intimidation, attracting and obtaining tribal lands by marrying tribal women. There is ample evidence that most of these non-tribal are from the upper caste and ruling classes of coastal Andhra. These questions have been posed very much by many academics that have focused on tribal issues. In his study on 'Tribal Land issues in the Telangana Region' submitted to the government in 2005, also Girglani, J.M, says that Telangana has long since lost land to non-tribals. The Gonds of Adilabad lost land to the Marathis in the 1930s and to Hindu and Muslim settlers invited from neighbouring districts by the Nizam during the 1940s (Revathi, 2013). The famous Regulation of 1/1970, Scheduled Areas in Telangana, saw the arrival of non-tribal communities, mainly from four central coastal Andhra districts, which passed into the hands of Telugu non-tribals in due time. The attack on scheduled areas in Telangana by non-tribals from coastal districts continued unabated. According to estimates, as many as 1.5 lakhs of fertile land along Warangal and Khammam's Godavari River banks have passed into the hands of dominant caste people such as landlords and cultivators belonging to the coastal region of Kamma, Rajulu, Reddy and Kapu due to the inadequate enforcement of the Land Transfer Regulation Acts (LTR). Andhra Pradesh Land Transfer Regulation-1959 was amended in 1970 in a similar line with Kerala, in an effort to satisfy the interest of non-tribals as a result of the Khammam district being a victim of the most atrocious infiltration of non-tribals from coastal areas.

FOREST RIGHTS FAILURE TO ENSURE

As tribal communities have no legal rights over the lands on which they have been living and cultivating for generations, it became easy for non-tribals to acquire the land of tribal people after the emergence of private property and the emergence of modern nation states. These unregistered lands are often declared by law as reserved or protected forests, or sanctuaries and national parks. Access to forest production or cattle grazing by tribal communities is made illegal, threatened and penalized for entering the forest. The Tribal communities belong to a

large number of these individuals. Every day, they live under the unpredictable threat of being evicted from their homes; due process of law is the only legal protection they have. The State has used force to suppress them over the years, to the extent of denying them the right to life, when these individuals have protested against oppression by the forest department or raised their voices to demand legal rights.

The 1988 National Forest Policy still recognizes symbiotic relationships between forests and tribal communities; under the Forest Act of 1927, the tribal people were systematically victimized. When the Forest Conservation Act of 1980 came into effect, thousands of acres of land were invaded overnight by tribal communities. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act was introduced by the government of India in 2006. By restoring and recognizing their pre-existing rights, the Act is aimed at undoing the age-old injustice done to tribal communities (Tipper, 2014). However, the recognition and restoration has passed through rough weather in relation to its implementation. Until today, the Government of India has failed to notify the 2006 Forest Rights Act of the Rules of Procedure. Tribals continue to be prosecuted for accessing minor forest production in the meantime. Under various provisions of the Forest Act of 1927, there were 2,57,226 forest cases pending against 1,62,692 tribal groups between 1955 and 30 June 2006.

DEVELOPMENT POLICIES BECAME DISADVANTAGE TO TRIBAL COMMUNITIES

Tribal people have accounted for 8.6% of India's total population as per the 2011 census. Due to mega development projects such as industries, mines, dams, wildlife sanctuaries, parks and nature protection, etc., 55.1 percent of the total development project-induced displaced persons up to 2010 Development projects have become more problematic, particularly in the last few decades in Andhra Pradesh. Take the Polavaram dam in this sense, which is to be constructed across the Godavari River, which in the three states will displace around 400,000 people; Andhra Pradesh, Chhattisgarh and Orissa. At least 150,000 of them are Tribals (the submergence region includes 170 Koya and Kondareddy habitations), especially vulnerable Tribal groups are in shock, especially vulnerable in terms of livelihood and preservation of distinctive cultural heritage, and the rest mostly Dalits depend on minor forest products for their livelihoods. Not only does displacement disrupt the lives of the displaced individuals and families, but also their whole communities and cultures. In certain cases, socio-economic processes and cultural structures break down due to displacement (Huhua, 2009). As a consequence, in each socio-economic measure, tribal communities are at the lowest point. In addition, they rarely get rehabilitated. Tribal groups face more displacement as India's active economy needs additional capital. The 2004 National Policy on Relocation and Recovery for Project Impacted Families has been revised twice over the last three years, in 2006 and 2007, but has not addressed the issues of displaced people. For their right, tribal groups need to resist and democratic conscious people should help them in this regard.

TRIBAL GROUPS' CULTURE AND LANGUAGE RIGHTS

While Article 19(5) of the Constitution states that a cultural or linguistic minority has the right to preserve its language and culture, tribal groups have been unable to safeguard and promote their language and culture. This implies that as individuals and communities, Tribals have the right to use their own language, to practice their own culture, to learn their own history, tradition, and heritage, etc. (Xaxa, 1999). The state does not force any other culture or language on them by law. Although the state may not have imposed any language or culture on them, it

has not taken any positive measures worthy of its name to comply with this constitutional provision. Instead, the measures taken are far from being in accordance with the rules set out in the constitution. Instead of preserving and fostering the distinct language and culture of the Tribal groups, the posture they adopted was inevitably in the direction of assimilation into the language and culture of the main group. For instance, schooling extended to tribal communities has invariably been performed in the language of the respective states' dominant regional group or in English. As a result, tribal groups are losing knowledge of their own language and culture more and more. Indeed, tribal groups themselves have been left to foster language and culture. However, due to the lack of influence over human, organizational and financial capital, meaningful action in this direction has not been taken by the tribal communities. The Tribal communities have been able to preserve and safeguard their identity only where such assistance has been made available in some form or another.

VIOLATION OF INDIA'S PESA ACT

This essential Panchayat (Extension to the Scheduled Areas) PESA Act 1996 has been enacted in recent years to improve the constitutional provisions for the security of the Tribal communities. The Act empowers the intended Tribes through the Gram Sabha to safeguard and maintain the traditions and customs of the people, their cultural identity, community resources, and customary way of resolving disputes. Interestingly, in the above and in essence, the provisions of the Panchayat Act hardly find their due place. However, in the Scheduled Areas of Andhra Pradesh, Chhattisgarh, Jharkhand and Orissa, there are extensive breaches of the PESA Act, 1996, in mining and land acquisition. Clause 4.e.(1) of the Panchayats (Extension to the Scheduled Areas) Act, 1996, specifies that before such plans, programs and projects are taken up for implementation, each Gram Sabha will approve social and economic development plans, programmes and projects. Clause 4 again. I state that, prior to the acquisition of land in the Scheduled Areas for development projects, the Gram Sabha or Panchayat shall be consulted at the appropriate level. And the actual preparation and execution of the projects in the Scheduled Areas shall be organized at the State level before resettling or rehabilitating persons impacted by such projects in the Scheduled Areas (Memorandum, 2010). Despite the above provisions for the rights of the Tribal communities, during any development project, no necessary initiations are taken to take the opinion and consent of the Gram Sabha, which constitutes the views of the citizens. In certain instances, the Gram Sabha Guidelines are not made mandatory prior to the granting of a prospecting licence or mining contract. For example, in the case of a multi-purpose project, Polavaram, Gram Sabhas are not carried out in villages and no consent has been obtained from the citizens. In Andhra Pradesh or in the neighbouring states like Orissa and Chattisgarh, this procedure is not pursued. While this project has not obtained environmental approval, project construction has been started.

In Schedule Five Regions, the Constitution entrusts the Governor with the duty of maintaining stability and good governance, with full powers over the state government to this end. Governors were also expected to apply to Parliament an annual report intended to be an impartial review of administration in the Five Areas Schedule. Governors have, however, slowly but surely ignored their duties towards the law and towards the welfare of the Tribal communities since the enactment of PESA. Even the Indian government has also struggled to execute the country's Tribal sub-plan.

DISCUSSION AND CONCLUSION

Human rights abuses generate many economic and emotional issues. It influences human beings' nature and health, and causes several disorders. By adopting realistic steps along with considering the rights given, it is possible to imagine the life chances of tribal communities improving. Silence on rights, however, will always hold the danger of a return to paternalism and the treatment of an identifiable group of persons as a charitable issue, not as a group of human beings to whom society has obligations and responsibilities. An immediate implementation of the constitutional guarantee, which regulates and preserves the rights and sovereignty of tribal peoples, is required. Otherwise, this will lead to the extinction of the human image of the different tribal groups. The autonomy of the tribal communities is at stake through the involvement of non-tribes in their territory. There is therefore an urgent need for Tribal Autonomy Councils to be formed so that the Tribal Communities can take care of the laws, enforcement and creation of the localities themselves.

REFERENCES

1. Minz, N. (1993). Cultural Identity of Tribals in India. *Social Action*, Vol. 43, Jan-March. Pp 32- 40.
2. Nair, R. (2006). *Human rights in India: Historical, social and political perspectives*. New Delhi: Oxford University Press.
3. Poulter, S. (1998). *Ethnicity, Law and Human Rights. The English Experience*, Oxford Clarendon Press.
4. Shah, G. (2004). *Social movements in India: A review of literature*. New Delhi: Sage Publications.
5. Thipper, B. (2014, Feb17). Right over forest land for tribals in the offing, *The Indian Express*, P. 6 .
6. Huhua, Cao. (2009). *Ethnic Minorities and Regional Development in Asia*. Amsterdam University Press.
7. Xaxa, Virginius. (1999). Tribes as Indigenous people *Economic and political Weekly*, 34No.51 December 18-28, Pp. 358.
8. Sharma, B. D. (2001). *Tribal Affairs in India: The Crucial Transition*. New Delhi: Sahyog Pushtak Kuteer.
9. Sharma B.D (2010) _Report of the sub-committee appointed by the Ministry of Panchayati Raj to draft Model Guidelines to vest Gram Sabhas with powers as envisaged in PESA.
10. Baxi, Upendra. (2002). *The future of human rights*. New Delhi: Oxford University Press.
11. Menon, P. S. K. & Sinha, Bakshi D. (2003). *Panchayati Raj in Scheduled Areas*. New Delhi: Institute of Social Sciences. Ministry of Tribal Affairs, Government of India Retrieved from <http://tribal.nic.in/> visited on (March 3rd 2014).
12. Sachar, R. (2009). *Human rights—Prospects & challenges* New Delhi: Gyan Publishing House.
13. Singh, M. (2009), Address at the Chief Ministers' Conference on Implementation of the Forest Rights Act, November 2009,
14. Suresh, H. (2003). *Fundamental rights as human rights*. Mumbai: Sabrang Communications and Publishing Pvt. Ltd.