

Get this from a library! Tribal forest-dwellers and self-rule: the constituent assembly debates on the fifth and sixth schedules. [Savyasaachi.; Indian Social Institute.].

Reflection on Critical Intersections Published On: Rights have always been acquired, never granted. The seminar was supported by the Tribal Intellectual Collective India. Introduction The framing of the constitution was one of the fundamental constructs of nation building in free India, providing the transit of passage of its people from subjecthood to citizenship. This was sought to be done through constitutionally guaranteed rights and a framework of governance which was to be a break from colonial rule to self- rule. These rights embodied social justice and formed an integral part in the reconstitution of the state as a developmental state which seeks to provide opportunities of development to those citizens who need to catch up with the rest. Apart from these provisions, the Constitution also provided for separate forms of governance for the tribes as encompassed in the Fifth and Sixth Schedules of the Constitution. But how far are the Fifth and the Sixth Schedule an acknowledgment of the recognition and acceptance of the different socio-cultural and political systems prevailing in tribal areas or are they a continuation of the colonial policy are questions that are debatable and need examination by looking at the administrative structure of the British as well as of independent India. Administration of Tribes in British and Independent India Ambedkar had himself admitted that the Constitution of India borrowed heavily from the Government of India Act of and the entire administrative structure of the old state was adopted by independent India. As many as of the articles in the Constitution were taken verbatim from the Act of More importantly, Article of the Constitution of India continued the operation of all colonial laws in independent India unless repealed by the Constitution. It was merely change in the form of governmentâ€œ. The different administrative structure for tribal areas followed by the colonial rulers was partially retained by the Constitution. The British had formulated the policy over the years of special governance of the tribal areas due to mainly the resistance of the tribes to the colonial rulers. This had led to certain areas being excluded from the British governance. The British of course were driven more by the need and desire to commercially exploit the forest and mineral produce found in abundance in the tribal areas in India and hence adopted military control over the areas that were non-regulated Savyasaachi: The first law for special administration of tribal areas was introduced in wherein southern Odisha and seven districts of Andhra Pradesh were brought in for special administration GOI, The British identified districts all over the country for special administration with the passing of Scheduled Districts Act, The Montague Chemsford Reforms of also recommended that tribal areas be excluded from the administration of provincial governments and be retained by the Governors and the Governor General. This policy is reflected in the two Government of India Acts of and However it is important to note that though the areas were designated excluded, in reality the regime was mostly military control and commercial exploitation of the rich resources in the tribal areas. Further the territorial sovereignty exercised by the colonial rulers over British India was retained in the tribal areas too and the doctrine of eminent domain prevailed in these territories with the Land Acquisition Act applying to them. The Forest Act passed by the British which designated forests as reserved and protected bringing them under the domain and control of the government made the forest dwellers trespassers in their own land and criminalised their existence. The Constitution gave special status to tribes and tribal areas, bringing in the regulated areas in Central India under the Fifth Schedule and the partially and fully excluded areas of the North East states of Assam, Meghalaya, Tripura and Mizoram under the Sixth Schedule. Over the years, there have been inclusions to the Schedule with the inclusion of Bodoland Territorial Council in Special provisions for other North East areas have not been included in the Sixth Schedule but have been dealt with through constitutional amendments such as inclusion of Article A regarding application of customary law regarding transfer of land and resources in Nagaland, Article C giving the Governor control over the administration of the Hill Areas of Manipur, Article G applying customary law to Mizoram and Article H giving the Governor control over law and order in Arunachal Pradesh. Thus the administrative framework of tribal areas differs and is determined by the Parliament giving greater powers to

the executive than what they enjoy in other regions. The administration of the Fifth Schedules is in the hands of the central government through the agency of the Governor who has the power to declare, include or exclude any area from the Schedule as well as declare that a law may not apply to the area. The fundamental difference between the Fifth and Sixth Schedules is the relative autonomy enjoyed by the Sixth Schedules. They also have the powers to administer justice for certain disputes amongst tribals but are subject to the jurisdiction of the High Courts. However the Governor retains control over the councils including the power to dissolve them. In reversal to the provision of Fifth Schedule in the Sixth Schedule areas, no law of the parliament shall apply unless directed by the Governor. The proviso to Paragraph 3 prohibits the Council from overriding any state law permitting compulsory acquisition of land for public purposes by the state. While the administrative structure does provide for greater autonomy in certain matters, it is relevant to note that the powers of state legislatures under the Seventh Schedule are much wider. The two schedules governing tribal areas provide for greater executive control of the Union Government and hence provide lesser space for democratic governance, though they do provide greater powers to the districts and the villages after the passing of the Panchayats Extension to Scheduled Areas Act, However the most significant protection granted is the prevention and restriction of land alienation from tribes to non tribals, though most of these laws date back from the colonial times. The debate at the time of independence and the framing of the constitution while dealing with the issue of continuance of British system of governance and the question of greater autonomy to tribal areas was mainly regarding the issue of bringing tribals into the national mainstream. The debates of the Constituent Assembly reflect the views of the mainstream Indian political classes towards the issue of greater autonomy to the Schedule Areas are reflective of the need to move from exclusion to protectionism Savyasaachi: The views of most of the members reveal that tribals were looked down upon as primitive or backward and there was reluctance to grant autonomy, resistance to acceptance of the tribal way of life. In the project of nation building, the Indian state had the choice of opting for embracing the plurality inherent in the diverse communities and giving political freedom to the people, but chose instead to opt for assimilation into a pan-Indian national identity and the rewriting of history of the freedom struggle in which the struggle of the subaltern populations were seen as communal or cultural and not national or political and hence requiring disciplining and not worthy of power sharing or staking a claim in nation building Anupama Roy: This ideology perforce requires a homogenous national identity and thus the dominant hegemonic Indian identity has been constructed as being Hindu upper caste, north Indian. The seeds of Indian nationalism as being synonymous with Hindu nationalism which were sown in the Independence struggle led by the Indian National Congress have led to the present hegemonic construction of militant Hindu nationalism in the form of Hindutva and the emergence of right wing Hindu state For a discussion, see Anupama Roy Partha Chatterjee Perry Anderson This was also necessary given the fact that many regions in the North East disputed being part of India and were fighting for their independence and were forced to become a part of India. This demonising of the other in the garb of social engineering or civilizing mission was a continuation of the justification of the colonial encounter. Today it extends to the entire North Eastern states. The presence of the army even otherwise in the North East also indicates the continuation of the policy of military control of the excluded areas adopted by the British. These political underpinnings of the entire legal system have sat in uneasy accommodation in the Constitution itself which contains both the strands of democratic aspirations of the people as well as the colonial scheme of governance. There are three fundamental contradictory features of the legal and administrative framework of the Indian state which have given rise to the current paradoxes in tribal policy of the Indian state. The first feature is the constitutional scheme of recognition of both individual as well as community citizenship rights which divide the political economic individual rights from the socio-cultural community rights thereby creating a divide between the community and the individual. These arise from the democratic ideals of the constitution guaranteed by Part III and Part IV of the Constitution which provide for both redistributive rights as well as rights of recognition embodying aspirations of socio-economic equality with recognition of socio-cultural difference. The affirmative action on the part of the state especially relating to the reservation policy and representation in the democratic institutions give rise to expectations of full democratic participation which are not met due to the third contradiction. The judiciary

which has been granted the powers to interpret the Constitution has interpreted rights narrowly and in the conflict between power and rights, it is the former which has trumped the latter in most instances. While the hierarchy of rights privileges individual rights over community rights, it also takes the decisions of formulation and implementation policy outside the ambit of democratic processes and thereby criminalises dissent by leaving only extra-legal measures of dissent available to the people. The second feature which is in contradiction to the aspirational framework is the institutional and constitutional acceptance of continuity of colonial laws and policies which have been incorporated in the Constitution through Article 372 as well as the vesting of all property and natural resources with the state instead of the people under Article 300. The non-justiciable principles enshrined in the Directive Principles have been abandoned with the adoption of neo-liberal policies leading to greater corporate control over resources at the cost of customary rights enjoyed by communities. The dichotomy between political economy and socio-cultural has led to the framing of self-rule by tribes as belonging solely to the domain of preservation of cultural practices while all demands for sovereignty of the people over their land and natural resources has been delegitimised by the state. Retributive justice a fall out of the colonial regime has subserved distributive justice as promised in the constitution and a repressive legal framework privileges property relations over life and liberty privileging colonial policy over democratic rights. The last feature is the underlying ideology of the Indian State of pan Indian Hinduism with the emphasis on territorial unity and integrity which necessarily require the containment and repression of any aspirations which differ from the dominant ideal. This is the dominating feature of the legal framework of the Indian state which denies the citizens and parts of the Union the right to cede or secede from the union. While the constitution attempts to create hegemonic consent to the dominant idea of the Indian nation state, through grant of rights, due to the inherent contradictions produced by the construction of Indian nationalism as Hindu nationalism, it has not been successful in dealing with containment of dissent. The Indian state in order to preserve the territorial integrity of the nation state views difference and dissent as potential threats to be dealt with by repression and the demonification of the other which is legally sanctioned by the colonial laws regarding sedition and post colonial laws regarding preventive detention on grounds of national security as well as exceptional laws such as Armed Forces Special Powers Act and various laws dealing with terrorism, which have all been held to be constitutionally valid by the Supreme Court whenever challenged. This has led to the waging of war by the state against the enemies of the state and the establishment of the security regime which is condoned by the Constitution. This war which has also facilitated primitive accumulation in the tribal areas has also reconceptualised citizenship which justifies the denial of rights to those individuals who are a threat to national security and national interest. Self preservation of the state becomes the primary legitimating principle of the state. Those who are enemies of the state thus have lost the moral right to be citizenship.

Three Paradoxes of State policy The contradictions which emanate from the underlying politico-legal framework of the Indian state have led to three paradoxes in the state policy towards tribals which have led to the non-fulfillment of the constitutional promise of self rule. While the Constitution grants special status and protection to the tribes, the tribal areas in reality have been treated as states of exception to the rule of the law and system of democratic governance. The Central Government has greater control over the areas and militarization has been a constant feature of these areas. The contradictions in the policy relating to tribals in the Constitution has resulted in the following three paradoxes emerging: **Greater Democracy vs Greater Repression** While the Sixth Schedule gives greater powers to the people and decentralizes democracy to a large extent, this is not true of all tribal areas. In Manipur and Arunachal Pradesh, the Governor has greater powers for law and order and in the Fifth Schedule areas he enjoys sole administrative responsibility and power. While on the one hand there are restrictions on the transfer of tribal land, tribals have borne the brunt of developmental policies of the state. The report further states that of the Further military presence and control continues with the imposition of AFSPA in the North East and the military intervention in the Fifth Schedule areas due to the resistance to displacement due to developmental projects. Ironically the developmental state in the tribal areas is present more as a military presence rather than as a harbinger of welfare or governance system with the educational, health, nutrition and other socio economic indicators being abysmally low See GOI, The limited powers of governance given to the Autonomous Councils and the almost nominal role of the Tribes Advisory Councils

apart from the control of the executive of the union government indicate the assimilationist policy of the state. Conclusion These paradoxes arise from the tensions inherent in the constitutive elements of the Indian state which comprise of contradictions inherent in the Constitution itself. While on the one hand, the constitution grants and promises rights to the citizens and adopts an overarching pluralist framework which accepts the vast cultural diversity in the country, on the other hand it retains the administrative structure of the colonial state. These contradictions also give rise to contrary responses of accommodation and repression and are reflected in the lack of a uniform policy framework for all tribes in the constitution. Planning Commission of India K. Kannabiran, *The Wages of Impunity: Power, Justice and Human Rights*, Hyderabad: Colonial and Post Colonial Histories, Princeton: Das are especially revealing of this sentiment See for example the decisions of the Supreme Court of India in the Narmada Bachao Andolan case and the Balco case wherein the court stated that it would not interfere with the New Economic policy adopted by the state The Supreme Court upheld the constitutional validity of preventive detention laws immediately after the framing of the Constitution in A.

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The law was enacted in response to a nationwide mobilization of marginalized forest dwellers and their advocates demanding rights over forests. The case illustrates the role of grassroots mobilizations in creating alternate discourses of legitimacy, networking across scales and locations, and using spaces provided by representative democracy to include the voices and demands of the marginalized in democracies. An Act to recognise and vest the forest rights and occupation in forest lands in forest dwelling scheduled tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. And Whereas the forest rights on their ancestral lands and habitats were not adequately recognised in the consolidation of state forests in the colonial as well as in independent India resulting in historical injustices to the forest dwelling scheduled tribes and other forest dwellers who are integral to the very sustainability and survival of the forest ecosystem. At the same time, inclusion becomes a critical question for the marginalized. This article is based on dissertation research conducted by Kundan Kumar during 2007, under the guidance of John Kerr. We would like to express our gratitude to the NGO Vasundhara, particularly the Land Team members for their support in the research. We are also grateful to the anonymous reviewers of Development and Change for their comments and encouragement. Most of all, we would like to acknowledge the many extraordinary people who made the Recognition of Forest Rights Act possible and express special thanks to Madhu Sarin, Shankar Gopalakrishnan and Pradip Prabhu. Development and Change 43 3: Kerr whose lives and well-being are linked to their ability to have a substantive say in public decisions affecting them. The high modernist developmental state with its tendency for top-down reconstruction of societies through the instrumentality of the bureaucracy sees poor people as passive subjects of development instead of active citizens participating in government. Scott, The material and cultural resources, institutional access and dense networks and connections across locations and scales that elites can draw on to obtain favourable policies and changes Knoke, ; Moore, are not typically available to the marginalized. Ordinary people use contentious politics through collective mobilization or struggles in attempts to make governments take account of their voices and aspirations Tarrow, Contentious politics become movements when they are backed by social networks and alternate discourses and symbolism, and enter into sustained interaction against perceived opponents ibid. Yet, the politically marginalized face difficulties in entering and sustaining the politics of contention and ensuring substantive policy changes at higher political scales due to resource constraints that make the costs of collective action prohibitive. Issues that the poor and marginalized confront are entangled in institutions and processes of governance at different scales and locations. The complex and multi-scale nature of governance structures creates obstacles for place-based social struggles trying to change state policy through the politics of collective action. To address this problem, grassroots mobilizations of marginalized people have increasingly linked with other similar struggles and civil society organizations to be able to reach across scales and spaces Escobar, Emerging new forms of mobilization of the poor and marginalized are embedded in place-based politics as well as in national and global politics. The increasing ability of locally-based grassroots organizations to link with each other and with other actors in open-ended and spatially dispersed networks allows them to draw both on the strengths of local, mass-based political organizing and on the flexibility and reach of networks over scale and space ibid. This has enabled collaboration amongst actors who share similar commitments and worldviews Keck and Sikkink, , and provided novel modes for the politics and struggles of marginalized people to traverse political decision making across scales and to cut across the traditional, hierarchical networks of information, power and authority. It also makes it possible for such formations to access expertise and knowledge to comprehend and negotiate the complex dynamics of governments and policy making. We show how networks of place-based social movements and civil society actors were able to weave together narratives of injustice, exclusion and claim making with astute advocacy and politics to pull off an important concession for the most marginalized and

voiceless sections of Indian society. The literature on social movements provides theoretical concepts to help understand networks such as the one that led to passage of the RFRA. These concepts include shared ideologies and identities that outline and define collective action frames Snow and Benford, , as well as favourable political opportunity structures, mobilizing structures of networks and face-to-face groups, forms of mobilization, representation and internal democracy, communications across space and scales, and processes of decision making Tarrow, They describe campaigns as sets of strategically linked activities in which members of diffused networks develop explicit, visible ties and mutually recognized roles in pursuit of a common goal. New linkages and networks may emerge through such processes around common and shared understandings. In turn, campaigns may lead to the emergence of shared subjectivities that then feed back into the process of change and collective action *ibid.* This article uses the example of the Campaign for Survival and Dignity CSD as an illustration of a networked movement created by combining grassroots place-based struggles of marginalized people with flexible, open-ended networking across space and scale. A coalition of more than grassroots and activist organizations from across the country, CSD was instrumental in the enactment of the RFRA, having managed to push the Indian state to enact progressive legislation in the face of considerable opposition. Along with the well-recognized importance of framing and construction of alternative discourses, we bring to the fore the ability of networked mobilizing structures like CSD to transcend scales of governance, reach diverse audiences and pull together resources and knowledge to achieve substantial change in favour of the marginalized. Forests are defined in a purely legalistic manner in India, as areas that have been converted to forest through application of various laws. Kerr The rest of this article discusses the dynamics leading to the enactment of the RFRA and then analyses four key aspects of the campaign: The article draws on three main data sources: The majority of people categorized as forest dwellers are scheduled tribe communities,⁴ dalits⁵ and other poor communities. They are subsistence cultivators and forest product gatherers, dependent on land and forest resources for their livelihoods. By 2011, about One consequence of the manner in which legal forests were created is that millions of people still live on and cultivate forest lands Sarin, a. Recent scholarship shows that various factors, including blanket declaration of legal forests Sarin, a; Kumar et al. The Government of India categorizes certain ethnic groups as Scheduled Tribes, which makes them eligible for protection under Schedule V and VI of the Indian Constitution and also for various specific welfare programmes. More than half the tribal population of India is below the official poverty line, compared to less than one-third of the rural population as a whole Kapur Mehta and Shah, Dalits downtrodden is a term used to describe communities defined as scheduled castes by the Indian Government. The scheduled castes consist of caste groups that had been heavily disadvantaged in the caste society, including those considered as untouchables. The application of these draconian laws, along with the older forest laws, criminalized livelihoods and contributed to the marginalization of millions of forest dwellers GOI, ; Sarin, The forest bureaucracy treats the presence of forest dwellers on legal forest lands as encroachments and officially seeks to evict them. The application of forest laws also makes most livelihood activities of forest dwellers illegal Fernandes et al. Efforts to evict forest dwellers accelerated in the late 1980s, with a devastating impact on forest dwellers. Hundreds of thousands of people have been evicted from forest lands without any compensation in the post-independence period Dreze, Restrictions on use of forests and forest land have affected the livelihoods of millions Sarin, b. Localized resistance and mobilization against exclusions in forested areas have existed since colonial times. In recent years, as the levels of exclusion and dispossession increased, local resistance and mobilization intensified in different parts of the country. In 1990s, efforts were made to address the problem of non-recognition of rights on forest land through a series of circulars issued by the Ministry of Environment and Forests MOEF under the FCA, 1980, but the efforts were mostly unsuccessful Sarin, In 2001, Supreme Court rulings interpreted the FCA, 1980, very strictly, making the resolution of disputes over forest rights even more difficult. Though this unilateral effort by the forest bureaucracy was based on misinterpretation of a Supreme Court ruling, serious efforts were made to implement it. In 2002, the MOEF admitted that people occupying 1.5 million hectares of land had been evicted from forest lands after the circular. Dreze estimated that almost 10 million families of tribals and non-tribal forest dwellers had been forcefully evicted. Media reports estimated that evictions would eventually affect almost 10 million tribals and non-tribal forest dwellers Kaur, The role of the

Supreme Court of India in forest conservation has been radically conservation-oriented, often to the detriment of forest dwellers Rosencrantz and Lele, Kerr The evictions and associated human rights violations led to an outcry by grassroots organizations and political formations all over the country Joshi, The efforts of grassroots organizations to create a national forum to address forest rights and evictions led to the formation of a coalition called the Campaign for Survival and Dignity CSD. CSD became a key player and interlocutor for the forest rights issue at the national level. An initial effort by the coalition was a jan sunwai public hearing organized in Delhi in July , where over a thousand tribal men and women from across the country came and presented their accounts of evictions and human rights violations ibid. The evictions became an issue in the national elections as the major political parties competed for tribal votes. Realizing that the attempt to evict millions of forest dwellers and tribals from forest land was a political miscalculation, the then Prime Minister promised that tribal encroachments on forest lands would be legalized and evictions halted. However, efforts to do so were stayed by the Supreme Court on the grounds that they violated the Forest Conservation Act, Venkatesan, Congress I had also made a pre-election commitment to discontinue eviction of tribal communities from forest lands. The CSD and other organizations working for forest rights took up the matter with the newly elected government in a series of high- level meetings in late The incoming central government administration formed the National Advisory Council NAC ,7 which recommended that the government pass a law to provide forest occupancy and user rights to forest dwellers. CSD also organized a two-day convention in Delhi in December , at which it demanded a law to recognize the rights to forests of forest- dwelling tribals and other forest dwellers Prabhu, It advised the national government on development issues. CSD presented a draft bill it had prepared for discussion. Although government officials in the TSG opposed the inclu- sion of non-tribal traditional forest dwellers, the non-government members, including the CSD representatives, pushed for their inclusion. The PMO objected to the inclusion of the non-tribal forest dwellers and also indicated that the law should apply only to those forest-dwelling scheduled tribes who were living on forest land before It also asked that protected areas sanctuaries and national parks be kept out of the purview of the proposed law. These directives were apparently the result of objections raised by powerful conservationists who had access to both the Prime Minister and the UPA Chairperson. These proposed changes led to a debate within CSD on whether to remain involved in the process of drafting the bill. It decided to remain engaged with the process while also putting outside pressure on the government. It launched a nationwide campaign to ensure that the draft Bill would be introduced in Parliament as soon as possible, including mass rallies in New Delhi and state capitals and postcard campaigns. Approximately a quarter of a million forest dwellers and tribals, including a large number of women, participated in these demonstrations and drew the support of many Members of Parliament from all parties CSD, As a new forest rights law started to become a serious possibility, strong opposition emerged from powerful conservation organizations and the forest bureaucracy. Following pressure from government coalition partners and the CSD, the government presented the Bill in Parliament on 13 December The Bill as presented excluded non-tribal forest dwellers, retained the cut-off date and provided for very limited rights inside protected areas, thereby ignoring the major demands of the grassroots campaign. The JPC invited oral and documentary submissions 9. In a letter dated 14 March to the Ministry of Tribal Affairs it said: The powerful conservation groups used both media and behind the scenes lobbying to ensure that the Bill was not tabled. Kerr and in May it produced its unanimous report, which reflected the CSD position. It recommended including non-tribal forest dwellers, extending the cut-off date to , and applying the law to protected areas. After taking cognizance of the JPC recommendation, the government submitted a revised Bill to Parliament in December , where it was passed without any significant opposition and became law. The law seeks to redress these injustices by providing these two groups with twelve types of rights, including rights over land occupied for agriculture or homestead, rights over non-timber forest products, rights to protect and manage community forest reserves, and community tenures for habitat for primitive tribal groups and other pre-agricultural communities. The rights determination process is to be initiated at the community level by the Gram Sabha¹⁴ village assembly and final rights determination and preparation of a record of rights is to be carried out by higher-level committees including both government officials and members of elected local self-governance institutions. At the time of writing this article, millions

of individual claims to forest land have been filed under the law in different states and are being processed. There has been little evaluation of how effective these claim-filing processes are, but at least in the areas where grassroots organizations are active, they are trying to Section 3 1 , RFRA, Section 5 d and 5 d , RFRA, Section 5 b , RFRA, Section 6 1 , RFRA, Section 6 3 to section 6 9 , RFRA, By March , 2. The law seems to have been poorly implemented in most states, with the forest bureaucracy maintaining control GOI,

Chapter 3 : Constituent Assembly Debates On 19 August, Part II

Tribal forest-dwellers and self-rule: the constituent assembly debates on the fifth and sixth schedules: 1. Tribal forest-dwellers and self-rule: the constituent.

Nearly million people live in and around forests in India, of which the estimated indigenous Adivasi or tribal population stands at about million. To put these numbers in perspective, if considered a nation by themselves, they would form the 13th largest country in the world, even though they cannot be depicted as representing any singular, monolithic culture. Since time immemorial, the tribal communities of India have had an integral and close knit relationship with the forests and have been dependent on the forests for livelihoods and existence. The relationship was mutually beneficial and not one sided. However, rights were rarely recognized by the authorities and in the absence of real ownership of the land, the already marginalized local dwellers suffered. The former empowers the government to declare any area to be a reserved forest, protected forest or village forest. The latter allows any area to be constituted as a "protected area", namely a national park, wildlife sanctuary, tiger reserve or community conservation area. Studies have shown that in many areas this process either did not take place at all or took place in a highly faulty manner. Types of rights[edit] The rights which are included in section 3 1 of the Act are: Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any State; Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity; Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses-1 to 11, but excluding the traditional right of hunting or trapping extracting a part of the body of any species of wild animal These can be summarised as: Title rights - i. This resolution is then screened and approved at the level of the sub-division or taluka and subsequently at the district level. The screening committees consist of three government officials Forest, Revenue and Tribal Welfare departments and three elected members of the local body at that level. These committees also hear appeals. The first step is to show that relocation is scientifically necessary and no other alternative is available; this has to be done through a process of public consultation. The second step is that the local community must consent to the resettlement. Finally, the resettlement must provide not only compensation but a secure livelihood. The most common is that the purpose of the law is to distribute forest land to forest dwellers or tribals, often claimed to be at the rate of 4 hectares per family. Some of this opposition has been motivated by those who see the law as a land distribution scheme that will lead to the handing over of forests to tribals and forest dwellers see Vanashakti, a group opposed to the Act, as an example. But the strongest opposition to the Act has come from wildlife conservationists who fear that the law will make it impossible to create "inviolable spaces", or areas free of human presence, for the purposes of wildlife conservation. Interpretation regarding Deadline cut-off-date: Supporters of the Act take the position that the Act is not a land distribution measure, and further that the Act is more transparent than existing law and so can help stop land grabbing. This is said to be because it will provide a legal right for communities themselves to protect the forest, as thousands of villages are already doing in the face of official opposition. This is the first time any Indian legislation has been attacked through a television campaign. The group criticised the Forest Rights Act as having the potential to cause huge floods, droughts, and to increase global warming. An exchange of correspondence followed, which can be found both at the Vanashakti website and at the website on the Scheduled Tribes and Other Traditional Forest Dwellers Recognition of Forest Rights Act" put up by the Campaign [1]. Criticism by forest rights supporters[edit] While supporting the principles of the law, forest rights supporters are not entirely satisfied with the law as finally passed. The recommendations of a Joint Parliamentary Committee on the law were partly rejected, and supporters of forest rights have claimed that some of the rejected clauses were important. All of the key features of this legislation have been undermined by a combination of apathy and sabotage during the process of implementation. In the current situation the rights of the majority of tribals and other traditional forest dwellers are being denied and the purpose of the legislation is being defeated. Unless immediate remedial

measures are taken, instead of undoing the historical injustice to tribal and other traditional forest dwellers, the Act will have the opposite outcome of making them even more vulnerable to eviction and denial of their customary access to forests

Chapter 4 : Ritambhara Hebbar, From resistance to governance

Tribal forest-dwellers and self-rule: the constituent assembly debates on the fifth and sixth schedules. Savyasaachi. Indian Social Institute, c

It is also the state whose adivasi citizens have been summarily denied their constitutional Scheduled Tribe status, deprived of their right to proportional representation in democratic institutions, and exposed to unchecked exploitation and dispossession by non-tribal dominant classes. This essay looks at colonial and postcolonial patterns of suppressing tribal identity, growth of huge industrial hub in tribal habitats and struggles of forest dwellers against Forest Department. They are found scattered in rural areas of many districts, and inhabit contiguous tracts in two separate geographical regions. One is the Tarai-bhabhar sub-Himalayan belt extending from Uttaranchal and comprising Pilibhit, Bareilly, Bahraich, Gonda and Kheri districts; the other is commonly known as Kaimoor region, and lies at the steps of the Vindhya mountain range. It is adjacent to the Chota Nagpur plateau, and consists of Mirzapur and Sonbhadra districts. The communities of river-bound folk like the Kevat, the Bind, the Nisadh were also counted among Primitive Tribes. The tribes described by Majumdar were earlier fully enumerated in the Census of India. On this there was consensus. For the rest, general administration was thought good enough. There were two such areas: Both areas were found to be in need of urgent corrective measures in view of massive oppression and corruption, but were not recommended for the status of Scheduled Areas. Any other tribe notified by the Provincial Government. The report further stated: Administratively as well as geographically the Bihar Government would be in a better position to manage this far-off corner of the United Provinces. In fact, the Thakkar Committee report endorsed the view of the government officials, that the tribals of the area had become undistinguishable from dalits: The population consists of a number of tribes having affinities to the tribes of neighbouring provinces from which they have come. There is no strong tribal life left among them. The Constitution via Articles 343 and 344 empowered the President of India and the Governors of States to compile and publish in the Gazette the complete listing of Scheduled Castes and Scheduled Tribes. The initial lists had been compiled under instructions of the Census Commissioner Dr. The Census operations were limited to the provinces of British India. Ambedkar as a post-thought, for the purpose of giving Constitutional sanctity to the lists of SCs and STs. It is now proposed that the President, in consultation with the Governor or Ruler of a State should have the power to issue a general notification in the Gazette specifying all the Castes and tribes or groups thereof deemed to be Scheduled Castes and Scheduled Tribes for the purposes of the privileges which have been defined for them in the Constitution. The only limitation that has been imposed is this: The object is to eliminate any kind of political factors having a play in the matter of disturbance in the Schedule so published by the President. All tribal communities of U. It notified five sub-Himalayan communities as Scheduled Tribes. The act of recognizing these five groups was perhaps meant as a face saving device against criticism that the Government of India ignores UP tribals. After separation of 13 northern districts of U. This was partly due to the grassroots mobilization that rallied around the adoption of Panchayati Raj institutions mooted by the 73rd Amendment to the Constitution. This comprehensive Act has a portion with regard to Uttar Pradesh. These ten communities are: Eight years after the coming in force of The Scheduled Castes and Tribes Act: The census did not include these tribes. Take Jabaar, a village in Duddhi block of Sonbhadra district of the state. Many villages are facing this problem. Karaia, another SC village in Duddhi block of the district, has no panchayat as its residents belong to a tribe. Another instance is Nagwa village in the same block. Its population is tribal but the seat is reserved for SCs. He was a Kotwar, an SC, whose work was to beat drums and make announcements for the tribes. Today, he is the panchayat president. All his six family members form the rest of the panchayat. These villages will remain unrepresented even after the next panchayat elections that are to be held five months from now. The tribals in Sonbhadra are angry. They find themselves losing not only their land, clean air and rivers but also their right to contest elections. The only ones eager to show sympathy to these villagers are Naxalite visitors from Chhattisgarh and Jharkhand. The tribal aspirants for Assembly and Parliament seats share the plight. He had become a tribal. The census will not recognise these tribes unless the

home ministry demands it. The Commission recommended that the Ministry of Tribal Affairs should take necessary action to draft a suitable bill for introduction in Parliament for making an enabling provision in the Delimitation Act, 2 for taking into account for the purpose of delimitation of constituencies of such tribal communities which were recognized as Scheduled Tribe after Census. To-date, this has not been done. The apex Court held that since serious questions of the law has been raised by the petitioners, the petition deserved to be admitted, but interim relief as prayed for cannot be granted. This was the reason why it had not acted on the matter so far. The rocky land makes it difficult for deep ploughing, so that they have to use miniature ploughs. By degrees the lands of old tenure belonging to the tribes are passing into the hands of sahkars who exploit them mercilessly. In Sonbhadra district, rapid industrial development affected the already sensitive ecology: In the villages, resentment grew and altercations with Forest Department officials became common. The fact of relevance to the present discussion is that the spread of this movement has been very rapid in Uttar Pradesh over the past decade and a half, encompassing Tarai – the Tharu country specially Lakhimpur Kheri and Bahraich Distt. The adivasi factor is prominent. Massive rallies organized by NFFPFW have demonstrated very high degree of participation of tribal women – literally holding half of the sky. What is more, they assert their rights on the ground. At that time, it appeared as a bold experiment. With that decision few will quarrel; but its value will depend on the mode of choosing these representatives, whether as trusted spokesmen of their tribes or because of party allegiance. Mathur, Tribal Land Issues in India: Perera Ed Land and Cultural Survival: See Chandra Bhal Tripathi, Anusuchit jatiyon evam anusuchit janjatiyon ka vikas tatha unki samasyaen, in: Samakalin Bharatiya Rajniti , New Delhi Chhatrapati Singh, On Survival: Forestry and the Law, in Lokayan Bulletin, 5: Majumdar, The Korwa, Ibid. Report on visit of the National Commission for Protection of Child Rights to tribal villages of Sonbhadra district in January states that facilities and programs for children are non-existent, schools do not function, air is filled with dust from crusher plants, clean drinking water is not available. The report gives a long list of urgent recommendations to tackle the problems. Sonbhadra, Mirzapur, and Chandouli. Ethnicity, Identity and Interaction, Vol. Guha, Ramachandra , Fighting for the Forest: Bosu Mullick eds The Jharkhand Movement: How To Find Us.

Chapter 5 : UNDP- Training Module

See the Constituent Assembly Debates in Savyasaachi, Tribal Forest-Dwellers and Self-Rule: The Constituent Assembly Debates on the Fifth and the Sixth Schedules (New Delhi: Indian Social Institute,), p.1

The Backdrop to the Debate on Self-rule 5. Restoring Life Support Systems: Conclusion Acknowledgements Glossary Bibliography Biographical Sketch Summary The article would focus on the efforts of tribes at evolving strategies to restore their life support systems in the midst of the heterogeneity that characterizes their lives. It concentrates on India in general and the Ho tribe in the Chotanagpur region in Central and Eastern India as a case study. The context is government policy on tribes in India and the recent legislation, i. The last section documents one experiment at restoring life support systems in a Ho village in West Singhbhum, Bihar.

Introduction The last century is characterized by large-scale environmental destruction. However, it is only in the last few decades that processes of environmental destruction have been viewed critically see for instance, McKibben , Merchant , Rifkin , and Worster This is in recognition of the fact that the world is faced by ecological crises. The thrust is on preserving the life of the biosphere, conserving global natural resources and restricting C E unsustainable consumption patterns that threaten the natural environment and, through it, human survival. E Oâ€™” The definition prioritizes systems of environmental management that sustain the life of the biosphere. Those systems alone qualify as life support systems. Any system is sustainable in so far as it can maintain a process or a state indefinitely, not only in one PL C generation but also over generations. The modern forms of environmental management, then, fall short of these requirements. The definition, thereby, excludes from its purview M ES modern forms of environmental management as well as modern understanding of human-nature relationship on which the former is based. Tribes, all over the world, have been U elevated on to a pedestal for their ecological sensitivity. This situation is ironical. Tribes were reminders of the inability of humans to take control over the vagaries of nature and exploit the wealth of natural resources available to them. For it is only through the reign of the human mind, through discoveries, inventions and technological advancement, that humans could comprehend and control nature. Over the century, interventions in the form of industrialization and modernization have been explained off as an interest in helping tribes overcome their inferior, peripheral position. However, the prime reason has been to gain access to the rich natural resources available in tribal areas. Tribes have been, par excellence, victims of the processes of industrialization all over the world. Tribal history as well as contemporary tribal life is marked by series of movements TE SS against such processes of objectification and marginalization. Tribes in India are no exception. Article of the constitution enlists, on approval from AP L the President of India, scheduled tribes in relation to the matters of the State. The total H O population of scheduled tribes is 7. These movements have raised concern over E Oâ€™” the state of the environment. In demanding rights over land and forests, tribal movements have sought to rescue the vestiges of their knowledge systems and life support systems. This search for life support systems, then, does not M ES break away from the dichotomies of self and the other, subject and object, culture and nature but sets itself along the same lines. They have been as much victims of the ecological crises as the rest of the world. They are faced by a similar dilemma as the world of to how to cope with the diversity of modern influences among them. There is, then, among them, a blurring of the distinction between self and other, unity and diversity, subject and object. The Debate on Tribal Autonomy and Life Support Systems Recent efforts at retrieving rights over land and forest in India have been initiated through a campaign for tribal self-rule. The concern for tribal self-rule came into focus on the issue of democratic decentralization and establishment of institutions of local self-government through the panchayati raj system. The parliament of India, in , passed the Panchayati Raj Act through which elected panchayats were constitutionally recognized as local bodies of self- government. The Act was automatically extended to tribal areas. Article M states that Part 9 of the Constitution, which empowers the state legislatures to make laws with respect to the constitution of the Panchayat, shall not apply to scheduled Areas under the fifth and the sixth schedule of the Constitution. Scheduled Areas cover most tribal areas and are areas that have special rules with regards to its general administration. The areas covered under the fifth schedule is supposed to be

governed by a Tribes Advisory Council at the state level, primarily comprising of tribal member of the legislature, and in consultation with the Governor. Thus, in these areas, there is a strong presence of the Centre in administration. The sixth schedule enlists selected tribal areas of the North- East. The Autonomous District Council, an administrative level lower than the state, are the bodies of self- governance in these areas. However, its power is restricted, as it requires the consent of the central government for translating any constitutional bill into a law. The Parliament set up a committee to suggest changes in the Act in order H O to make it suitable to pass a fresh legislation for Scheduled and Tribal Areas. The Bhuria committee was set up in under the chairmanship of Dileep Singh Bhuria. C E The committee submitted its report in January All the states in India had to pass E Oâ€™” laws on Panchayat systems in Scheduled Areas covered under the fifth and sixth schedule along the lines of the Act, within the following year. The constitutional and administrative crisis created thereof has led to a debate among politicians, administrators, social activists and social scientists on the question of tribal self-rule. PL C This debate is not of recent origin and is a recurring one. At the eve of Indian Independence, tribes were the focus of a heated discussion. The discussion was about their future in Independent India. SA N The debate can be summarized in the views of G. Ghurye and Verrier Elwin. Ghurye upheld the nationalist perspective and disagreed with Elwin. According to him, the strict distinction between tribes and the mainstream or caste society is not applicable in India. He placed tribal groups on the lowest rung of the tribeâ€™”casteâ€™”class continuum, a conceptual paradigm to understand the processes of change in tribal life. For Ghurye, the continuum suggested a movement from pantheism to a higher form of religion, from tradition to modernity, from a base and a crude way of life to a life morally and ethically superior. They had similar features to those found in lower forms of Hinduism. Jawaharlal Nehru evolved five fundamental principles of tribal development. It gives us a broad idea of the spirit with which he sought to administer tribal areas though it was specifically brought out in relation to the administration of the north- east region. We should try to train and build up a team of their own people to do the work of S administration and development. Some technical personnel from outside will, no R doubt, be needed, especially in the beginning. But we should avoid introducing too AP L many outsiders into tribal territory. H O The main intention was to protect tribes from the mainstream society and allow them to C E develop in their own terms. But his vision for the rest of India was of a strong, industrialized and developed country. The latter took precedence over the former and E Oâ€™” the processes of industrialization initiated by the British to tap the rich natural resources in tribal areas were reinforced with renewed rigor. This took a toll on the environment and, simultaneously, relegated tribal life support systems to the margins. PL C The pursuit of these two visions, independent of each other, reflected itself institutionally in the separation of economic planning from social justice and welfare; M ES industrial development from tribal development. The Government of India has, since , introduced a number of programmes and projects in tribal areas with the intention of ameliorating the conditions of tribes but has been unable to stop their SA N marginalization. We should not over- administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through, and not in rivalry with, their U own social and cultural institutions. We should judge results, not by statistics or the amount of money, spent, but by the quality of human character that is evolved. Tribal development programmes have been, at best, attempts at minimizing effects of development processes without being critical of the latter. Problems of displacement, migration, land alienation and unemployment are a product of the devaluation of tribal life support systems. This contradiction also expressed itself in protest and resistance movements at the level of the community against the policies of the State Desai Tribes have been the focus of discussion time and again during critical circumstances. Discontent among tribes along border areas and in the interior tribal areas has resuscitated the contradiction between the policies of the modern State and the position of tribes in it. However, there has been a tendency to treat tensions among tribes as problems of nation building, related to national integration of all peripheral groups; and the social and economic uplifting of depressed classes in the country. The report, in this context, does not divert from the norm. Who Will Save The Forest? C E Zed Books Ltd. Tribal Peoples and Development Issues, pp. Mayfield E Oâ€™” Publishing Co. Studies in Indian anthropologyâ€™”Sarat Chandra Roy, 70 pp. Indian Studies, Past and Present. Roy on the prospects of the discipline of PL C anthropology in India. Ecology in the Twentieth Centuryâ€™”a History, pp.

New Haven and London: Tribal Transformation in India, 5 Volumes Vol. I , pp. II , pp. Socio-Economic and Ecological Development; Vol. III , pp. Ethno-Politics and Identity Crisis; Vol. IV , pp. Education and Literacy Programs; Vol. Religion, Rituals and Festivals. Bihar and Orissa, India: Also served as a census on the area and its people.

Chapter 6 : Native American self-determination - Wikipedia

Interactive and Self -Learning Course on Important Provisions of Forest Rights Act,

Try out our Premium Member services: Free for one month and pay only if you like it. They are provided for very different reasons agricultural labour would be amply provide in the lower Chamber. My Friend Shri Muniswami Pillai by an amendment raised the question that there should be special representation for the Scheduled Castes in the Upper Chamber. Now, I should like to point out to him that so far as the Drafting Committee is concerned, it is governed by the report of the Advisory Committee which dealt with this matter. In the report of the Advisory Committee which was placed before the House during August the following provision finds a place: That being the decision of the Constituent Assembly, I do not think it is competent for the Drafting Committee to adopt any proposition which would be in contradiction to the decision of the House. Muniswamy Pillai and I think he ought to be content with what he agreed to abide by then. Ambedkar you have to formally withdraw went No. Yes, I have to withdraw it. The amendment was, by leave of the Assembly, withdrawn. I beg leave of the House to withdraw amendment No. In view of the explanation given by Dr. Ambedkar, I beg leave to withdraw amendments Nos. The amendments were, by leave of the Assembly, withdrawn. I beg to withdraw amendment No. I beg leave of the House. Vice-President The question is: I now put Mr. The question is "That in sub-clause b of clause 3 of the proposed article I now put amendment No. Volume 1, that the word "medicine" be inserted in clause 5. The amendment was negatived. I now put the amendment No. Now I place before the House article , as amended. Article , as amended, was added to the Constitution. Sir, I move my amendment No. Administration of Schedule and tribal areas. The only thing we are doing is that we are transferring the provisions contained ilk articles and to another and a separate part. It is because of the transposition that it has become necessary to re-number them in order to secure the necessary logical sequence of the new part. Barring minor changes, there are no changes of substance at all, in the new articles proposed by me-article A and article B. There is an amendment at page of the printed volume I No. Does he propose to move it? The whole basis of that amendment is taken away come new amendments moved, making the whole thing impracticable. Then you do not move it. The same remarks apply to amendments Nos. Sir, I rise to support the articles A and B moved by Dr. But I would like to add the following words Until Parliament by law otherwise provides It is not safe, it is not proper to define and lay down the constitution and the government of the tribal areas which cannot be changed without an amendment of the Constitution. Everything in the tribal areas is in a flux. Therefore it will be wise on the part of the Drafting Committee to add these words in articles A and B. Shri Yudhisthir Mishra Orissa: The Committee which was set up under clause 20 of the Cabinet Mission" Statement of 16th May, was required to report to the Constituent Assembly upon the scheme for the administration of the tribal and excluded areas, and to advise whether these rights should be incorporated in he Constitution: Now, Sir, the Tribal Advisory Committee did not then enquire into the conditions of the tribal people in the Indian States as it was not within its scope. In the meantime, however, a large number of Indian States have been integrated into the neighbouring provinces and they will now be administered as parts, of those provinces. It is therefore meet and proper that the tribal people of these small States should also get the benefit of the present provisions. In the original draft, the States were excluded from the operation of these provisions regarding the scheduled tribes but they have been included in the amendment just moved by Dr. When the backward tribal people of the provinces will have the benefit of the provisions of the Fifth Schedule, there is no reason why the aboriginal tribes of the States under the same administration should be excluded. But I regret to say that none of the tribal areas in these States have been specified as Scheduled areas in parts V to VII of the table appended to paragraph 18 of the Fifth Schedule of the Draft Constitution. The reason probably for omitting the tribal areas from the category of Scheduled areas is that the Advisory Committee on Tribes has not been able to go into the whole question, as it was not within its scope. I would request the Drafting Committee to specify the scheduled areas from the States in the Fifth Schedule, when that particular Schedule is taken into consideration in this House. The President of the Indian Republic under the new Constitution will, of course.

If it is not possible for the Drafting Committee at this stage to specify the scheduled areas from the States in the Constitution, I would submit that as soon as the Constitution is passed, the President of the Indian Republic should set up a Commission to enquire into the conditions of the tribal people of these States and to report whether any of the areas would be specified as scheduled areas. I cannot but strongly press for the protection of these tribal people of Orissa and the C. States by bringing the tribal areas under the scope of the Fifth Schedule as has been done in the case of the provinces. The scheduled areas specified in the Fifth Schedule will not be excluded from the jurisdiction of the Legislature or executive but according to the provisions of the Draft Constitution, the Tribal Advisory Committee as has been provided for in the Fifth Schedule, will only work as a sort of check on the executive power of the provinces as far as tribal matters are concerned. I submit that the tribal people of these States are as backward as, their kinsmen in the provinces. Ambedkar, I request him to take steps to incorporate the scheduled areas of Orissa and the C. States in the Fifth Schedule when that question comes up for consideration before this House. Sir, I rise to support the suggestion made by my honourable Friend, Shri Brajeshwar Prasad, with regard to the future administration of these tribal areas. It will be agreed on all hands that we do not contemplate the continuance of these various tribal scheduled areas in the same condition as they are today. I am sure that all of us visualise the day when they will be brought up to the level of the adjoining neighbouring provinces and will be integrated with the Provinces and States that lie contiguous to them. We do not contemplate a permanently different type of administration for them, from what is obtaining or might obtain or will obtain in the rest of India. In the light of these considerations the suggestion made by my Friend, Shri Brajeshwar Prasad is quite sound and I suggest that we should adopt the article as proposed by Dr. Ambedkar today, subject to the condition "until Parliament by law otherwise provides". We have just now adopted an article where we have vested power in Parliament to alter such. Brajeshwar Prasad the whole thing is in a state of flux. Therefore it is a good ground that Parliament should be given the power. That is exactly what he is saying Pandit Thakur Das Bhargava: The very ground given by Mr. Brajeshwar Prasad constitutes a good reason why Parliament should be empowered and the proposed provision is justifiable. On the contrary, Parliament should also have the power to declare other than otherwise, later on. It can change later on. I do not know what Pandit Bhargava has in his mind. I hope he will make it clear later on. But it is clear to me that it should not be left to an amendment of the Constitution: But if we leave it to Parliament to change it, it will be easier: I therefore suggest that Parliament should be invested with the power to make any suitable alterations in this regard and therefore the suggestion made by Shri Brajeshwar Prasad may be embodied suitably in the final draft of the article before it is brought before the House. I do not think there is any necessity to offer any remarks in reply. Article was deleted from the Constitution. The motion was adopted. We now take up article When the article was last under consideration Mr. Sidhva was speaking on his amendment No. Vice President, Sir, as you rightly stated, last time when I was moving my amendment No. Ambedkar intervened and stated that this article should be held over. My amendment in the printed list page 27 reads: If you refer to clause c of the article you will find that it relates to "terminal taxes on goods or passengers carried by railway or air". My amendment, if accepted, would mean that, while a b and d would remain, c would go. I will give you my reasons as to why I desire that clause c should be deleted from this article. The Octroi, terminal tax and toll tax are more or less allied taxes and at the same time they form the major revenue of the local bodies. Prior to the Government of India Act, , the terminal tax was a provincial subject. In the Act this terminal tax has been put as a Central subject. The Drafting Committee has more or less borrowed the section from the Government of India Act with minor changes in the language. They have not taken care to see why the terminal tax was changed in the Act from a provincial subject to a Central subject. If they had taken pains in the matter I am confident that they would have accepted my amendment. This octroi tax which is levied by the local bodies is a pernicious tax. It creates so many complications. The tax is levied on the weightment of goods and in the matter of ad valorem also on the weightment of articles carried by rail, which has created a kind of harassment to the trade. It has also led to corruption with the result that the Government of India appointed a Committee to investigate into the matter.

Chapter 7 : Ecological Democracy

Tribal Forest-dwellers and Self-rule. Indian Social Institute, Delhi, Indian Social Institute, Delhi, Virginius Xaxa, 'Empowerment of Tribes', in Debal K. SinghaRoy (ed.) Social Development and the Empowerment of Marginalized Groups.

It is this what sets these struggles apart from other movements demanding statehood and special privileges for the original inhabitants of the land. Is this the beginning of a new phase of governance in the area and an attempt at translating into practice the alternative vision of the movement on natural resource management? Or is it more a co-opting of tribes into the mainstream by offering them a state of their own? Jharkhand was officially recognized as the 28th state of the Indian Union on 15 November, the birth anniversary of Birsa Munda, the fore-bearer and inspiration of the Jharkhand movement. The formation of the state marks the end of a political phase in the area. With the formation of Jharkhand, although a clipped version as envisioned by the movement,⁴ the foremost demand of the Jharkhand movement was accomplished. Present day Jharkhand corresponds to the map drawn by the Bharatiya Janata Party for Vanaanchal, comprising of the tribal districts of south Bihar. However, there is some uncertainty whether the other major aspirations and demands of the movement have been accommodated by the formation of the state. Was state creation a realization of the aspirations of what the movement strove for is the question I explore in this paper. But labels reveal more than they conceal or cover up as categories of thought and politics. The celebration upon gaining a separate and independent Jharkhandi label vindicated their aspirations for the area and as a people. However, many dithered from celebrating, unsure whether the formation of Jharkhand was an answer to their prayers and expectations or the beginning of another round of haggling with the authorities for all those provisions of civil existence that should come naturally to a people as citizens and rightful members of a nation Krishna T o many observers and onlookers, the formation of the state sent mixed signals. The exhilaration around the formation of Jharkhand was accompanied by strikes and protests in Delhi as well as in Jharkhand by political and social activists on the politics that ensued over the formation of government in the state. A number of discussions were organized to discuss the fate of Jharkhand under a right wing chief minister and government. Many activists and political leaders belonging to the Jharkhand parties of various denominations felt cheated of their toehold in politics. They were suddenly divested of their contribution to the long struggle that paved the way for the formation of Jharkhand. And with it, many of the issues central to the movement were forgotten. The slighting of some prominent political leaders of the movement was as much a result of their own doing or undoing as it was a consequence of the rise of the Bharatiya Janata Party BJP as an important party in the area. However, the shenanigans that accompanied the politics around the chief ministerial birth raised doubts about the commitment to the welfare of its people and the area. In effect, it put a question mark on a number of objectives around which the movement had sustained itself over half a century that the creation of Jharkhand sought to achieve. T he cynicism with the politics that accompanied the formation of the state was reflected publicly and without reserve. If we ask ourselves the question as to who controls the lives of people within this physical area, then in order to give an honest answer we would have to admit that the controls are not in the hands of the Jharkhandi people. Basic to this realization are issues revolving around the control and management of jal, jungle and zamin. Most importantly, it was an appeal towards decentralizing these concerns to the people themselves in order to find possible solutions to gaining control over their waters, forests and lands and thereby over their lives. This appeal was a tacit apology for deviating from the very basis of the movement. It was simultaneously an appeal to the people to prepare for another phase of collective action to ascertain self-rule, a going back to the basic issue that the movement began with in seeking the support of the people in the struggle. However, this time round, the movement faces greater cynicism. One of its demands is to reserve the post of chief minister and his deputy for tribes people; also that all government workers who come in direct contact with the people should be locals and belong to a tribal group of the area. Second, tribal land should be restored and the leases of mines in the area should be taken away from non-tribes and given to local tribal groups. Third, the government should put an end to displacing people,

especially through dam projects. Fourth, sincere efforts should be made to end corruption in government. The fifth demand is to constitute a special committee consisting of leaders of the Jharkhand movement, intellectuals, representatives from minority communities and weaker sections of society such as women and scheduled castes. This committee would oversee government working and ensure that the interests of the weaker sections of the society are not compromised by the state. The activists also distinguish between a Vanaanchal perspective of self-rule, which is also synonymous with a modern and a diku outsider perspective, as against that of Jharkhand. The former is based on the exploitation of nature and believes in the values of individualism, competition and profit maximization, materialism and self-aggrandizement. The latter, on the other hand, is based on a respect for nature, communitarianism, sharing, consensus and believes in the philosophy that there is a limit to self-aggrandizement as beyond a point it amounts to exploiting other persons and beings in nature. The creation of Jharkhand on the lines of a proposed Vanaanchal was seen as the realization of diku aspirations in the area. In this light, the creation of the present state of Jharkhand may well be seen as an attempt to thwart the struggle towards self-rule. With the formation of Jharkhand, the local tribes feel outnumbered, being a minority within Jharkhand. Some in the movement attribute it to the census procedures, wherein there was no accounting of tribes practicing Sarna, or their ancient religion, as against those who have taken to Hinduism or converted to Islam or Christianity. This they feel is a purposeful move to alienate tribes from their own culture and region. Likewise, there are 14 Lok Sabha seats in Jharkhand of which only five are reserved for scheduled areas; the other nine seats are available to non-tribes for contesting elections. The fundamental point of altercation, it seems, is the issue of under-representation of tribes in the new political milieu as well as the fear of being sequestered of their lands and forests by the diku. It is worth mentioning here that the performance of the Jharkhand parties in the reserved constituencies over the past couple of decades has not been promising. It has seen a decline in their reputation as parties representing local tribes in the area, partly as a result of floating from one party to another. The s marked a significant change in Jharkhand, wherein the Bharatiya Janata Party emerged as the leading party in tribal Bihar. Thus, besides pondering over the dynamics of numbers in the newly formed state, the Jharkhand leaders need to consider the ascendance of diku parties and objectives in seats apparently set aside for tribes. The situation then is no different with the formation of the state. The demographic shift in the area was also accompanied by a diversification of tribal life in the area. The demographic shift is not a recent phenomenon and nor is it a problem associated only with the census operations. As early as , Roy Choudhury stated *ibid*. It was this resolve to change the face of Chotanagpur that spelt disaster for the local tribes. The movement had consistently campaigned against the processes of industrialization as well as construction of big dams, which were the main cause for displacement of people in the area. It demanded a separate state in the hope of restoring the rights of tribes to their lands, waters and forests. The formation of Jharkhand has not altered the equation between the state and the demands of the movement. The new state has made explicit its commitment to industrialize Jharkhand and open the countryside to commercial investment annual report on Jharkhand state economy , Government of Jharkhand. The recent legislation on political decentralization or The Panchayat extension to the Scheduled Areas Act does not help matters. Though it claims to devolve financial and executive powers to the village level through its fourtier system of decentralized administration, certain features qualify both these powers. The State Finance Commission as a financial award to the panchayat system would devolve a certain portion of the funds. Only an insignificant part of the funds would be collected through the system. In addition, the funds have been divided into two categories: Both these powers are paraphrased so as to accommodate issues of national and development interests of the country. The panchayats do not have the power to overrule or question state imperatives or interests in the area. In fact, as decentralized structures of the state, the panchayats would be bound institutionally to implement government programmes and policies irrespective of whether they find favour with the local people. The legislation thereby reintroduces the same points of discord between the movement and the state. Some of the major issues raised by these organizations were regarding their resentment over irrigation projects Ichagarh dam and the Koel-Karo dam project , field firing ranges Netrahaat field firing range , bauxite mines and white stone factories in Palamau and West Singhbhum , abuse of women workers in brick kilns and coal mines spread all

over Jharkhand and out migration of women of the area and their initiation into the illicit profession of flesh trade. The large turnout of women and of organizations working on issues of displacement in this session not only brought to light the gravity of the problem of alienation of forests and lands from the people of the area, but also the desperation of the locals over the state of affairs. As begetters and products of a specific economic and symbolic relationship with lands and forests, arts and crafts were dissociated from the latter and reduced to becoming mere exhibits of tribal heritage of India. The classic instance would be that of Panchsheel or the five principles advocated by Nehru in the administration of the northeast tribes, which purportedly expressed the spirit of administration in all tribal areas in India. The emphasis was on protecting tribal rights on lands and forests and allowing tribes to develop on their own terms. However, Panchsheel was in disagreement with the policy of industrialization for the rest of India. Since tribal areas are also the most resource rich areas, the process of industrialization was brazen with regard to tribal rights on land water and forests Arya , Das , Lorduswamy , Singh The debate initiated at the time of independence over the future of tribes in India between the integrationists vs. The debate between Verrier Elwin and G. Vanaanchal perspective recalls the isolation vs. It reinstates the divide between tribe and non-tribe around the same dichotomies of innocent vs. This encourages a politics that is not only insular, but also self-defeating. Both the movement and its adversaries oscillate between the same binary logic on tribes with neither focusing on the substantive issues of governance and culture that confront tribes at this critical juncture presented in the creation of Jharkhand. It is clear with the formation of Jharkhand that there can be no political solutions to cultural questions, that is, a political enclave will not ensure cultural autonomy or economic entitlement. And any meaningful deliberation on the issue of autonomy will only be possible if the movement unlearns the terms of the current debate on tribes. First, it has to acknowledge the diversification of tribal life in its politics. The revivification of tribal politics practiced by the nation-builders is a matter of concern as it casts doubts over the future of tribes in India.

Chapter 8 : About Us Â« The Forest Rights Act

3 "Tribal Bill Report: Land Rights to Forest Dwellers", 23 May 5 Savyasaachi, Tribal Self Rule in India: The Constituent Assembly Debates. Provisions of the Fifth Schedule are reproduced in Savyasachi, Tribal Forest Dwellers and Self-Rule: The Constituent Assembly De-bates on Fifth and Sixth Schedules, (Delhi: Indian Social Institute,),

Conceptual origin[edit] Flag of the Iroquois Confederacy Self-determination is defined as the movement by which the Native Americans sought to achieve restoration of tribal community, self-government, cultural renewal, reservation development, educational control, and equal or controlling input into federal government decisions concerning policies and programs. The beginnings of the federal policy favoring self-determination dates back to the s. In , John Collier , a social worker and reformer who had long worked in American Indian affairs, was appointed commissioner of the Bureau of Indian Affairs under President Franklin D. He was likely the most knowledgeable person about American Indians appointed to this position up to that period. He respected tribal cultures and values. It was to enable tribes to reorganize their governments and strengthen their communities. It ended the allotment of Indian lands to individual households, which had led to loss of control over their territories. The law was intended to decrease the paternalistic power of the BIA, which extended to their running numerous Indian boarding schools, where American Indian children were forced to give up native languages and cultural practices. The IRA enabled the restoration of tribal governments, but Congress made many changes in response to lobbyists, and the bill fell short of the policy of "Indian self-determination without termination. Over tribes were terminated; those that continued suffered from increased governmental paternalism. Nixon addressed the issue in his July 8 congressional message of "Recommendations for Indian Policy. It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of Justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions. In , Congress had passed the Indian Civil Rights Act , after recognizing the policies of Indian termination as a failure during the s. American Indians had persisted in keeping their cultures and religions alive, and the government recognized that the goal of assimilation was the wrong one. The bill was to ensure provision of the Bill of Rights to the tribal peoples. Rather than the BIA administering programs directly, the government would contract with tribes to manage health care, for instance, or educational benefits. Department of Housing and Urban Development supported housing programs. The Native American Housing Assistance and Self-Determination Act of consolidated grant programs for housing funding into a single block grant specifically available to recognized governments of American Indians and Alaska Natives. Leaders[edit] A renewal of Indian activism since the s saw the rise of a new generation of leaders. Public protests created publicity for their cause, such as the occupation of Alcatraz and Mount Rushmore, the Wounded Knee Incident, and other examples of American Indians uniting to change their relationship with the United States government. Strong Indian leaders traveled across America to try to add unification to the Indian cause. The leaders arose in different fields, starting independent newspapers, promoting educational independence, working to reclaim lands, and to enforce treaty rights. The result was a Native American force which fought for change throughout a wide variety of interconnected social spheres. Allan Yazzie[edit] For decades since the late 19th century, Native Americans were forced to send their children to boarding schools where they were made to speak and write in English only, and to learn the majority culture and Christian religion. Native Americans wanted to teach their children their own values and cultures. Although many politicians thought that the school would fail immediately, it prevailed. It became a strong sign of Indian self-determination and success. It had been taken by the Forest Service at the start of the twentieth century for inclusion in a national forest. Throughout the s, Bernal and the Pueblo had little success in regaining the lake. The administration of Richard Nixon supported self-determination for American Indians. After Senate hearings where Bernal was harassed by senators who thought that the Indians wanted the land for other than religious purposes , Nixon signed a

bill to return the lake to the Taos Pueblo. Ada Deer continued to lobby for the Menominee Restoration Act. After Aspinall failed to win an election, the tribe prevailed and the act was signed by President Nixon. Ada Deer along with such people as Lucy Covington is one of the early examples of self-determination in tribal members; her efforts helped restore all the terminated lands back to the Menominee tribe. He served as the chair of a committee of Indian leaders at the American Indian Chicago Conference, and crafted an Indian policy called "Declaration of Indian purpose. It was a sign of change in the s and s when the termination era ended. Kennedy by the National Congress of American Indians. The tribal governments started to bypass the BIA and focus on self-determination plans. He is a lawyer who has worked to protect Indian land and sovereignty. McClanahan lived and worked in the reservation, and was taxed. Supreme Court ruling was in favor of McClanahan, and tribal rights of members to be excluded from state taxes within tribal sovereign land. She helped establish stronger self-rule for the Navajo as well as other Native American tribes. These organizations can be divided mainly into two levels: National[edit] In , the National Congress of American Indians NCAI was founded "in response to termination and assimilation policies that the United States forced upon the tribal governments in contradiction of their treaty rights and status as sovereigns. NCAI stressed the need for unity and cooperation among tribal governments for the protection of their treaty and sovereign rights". The War on Poverty Grants "empowered tribes by building tribal capacities, creating independence from the BIA, and knitting tribes together with other tribes and the country as a whole. Deloria explains, the OEO helped the Indian people become more independent and powerful: Indian tribal governments had money and were not beholden for it to the Bureau of Indian Affairs. Tribes could, to some degree, set their own priorities. It has become the primary national advocacy group for Native Americans. It continues to handle civil rights cases for the Native American community in the United States. Regional[edit] Accomplishments and progress of Native American organizations on the national level inspired change on the local level. It did not take too long for local tribes to begin to establish their own organizations that would benefit them directly. MEI , and, eventually, even reversing termination, which was the main purpose of self-determination. DRUMS made an immediate impact. Within months of establishment, the Menominee organized a series of well-planned and smoothly executed demonstrations. Within a month of the march, Governor Lucey visited Menominee County, and consistently supported the Menominee movement. In addition, DRUMS managed to produce a first draft of the Menominee restoration bill by the end of and by early the tribe had already obtained an astounding level of support, including the support of Democratic Presidential nominee Henry Jackson. Though it took a prodigious amount of work, the Menominee Restoration Act moved through Congress with rare speed. In April , MEI was dissolved and all Menominee lands were transferred back to the tribe, to be held in trust by the United States of America and governed by the sovereign Menominee Tribe of Wisconsin. Although DRUMS set its sights on improving the status of the local Menominee people, it was a big step toward the nationwide self-determination movement. Institutional capacity[edit] The new policy of the Office of Economic Opportunity, which sought to directly involve the recipients of its aid, provided further impetus for self-determination in education. The success of the OEO Head Start preschool program was attributed primarily to the fact that Indians were "allowed to operate programs. For the last years, the Government has been doing things for us and telling us what is best for Indians. As tribes began to have more control over their own affairs and have more infrastructure entitled to them, they were able to be in much more command of their space, make more money, which led to power and progress.

Chapter 9 : Catalog Record: Fishworkers' movement in Kerala, | Hathi Trust Digital Library

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, , is a key piece of forest legislation passed in India on 18 December It has also been called the Forest Rights Act, the Tribal Rights Act, the Tribal Bill, and the Tribal Land Act.