Social Exclusion of Tribals in India: Recognition of the Differences and the Role of the State

Alka Pal
Ph.D. Research Scholar, Center for Political Studies, School of Social Sciences, Jawaharlal Nehru University, India

Abstract

This paper deals with the socio-economic and political dimensions of social exclusion and the aspects of 'governmentality' and also the legal and political apparatus of the state which is centrally involved in overcoming these disadvantages. Taking the empirical case of 'tribal identity' in India this paper will try to delineate that how theoretical literature on social exclusion can be helpful in understanding the ground reality and what challenges it throws to the state and society.

Conceptualizing Social Exclusion:

The Nuances of the Debate: The emergence of 'identity politics' and 'identity movements' has escalated the tussle between 'politics of redistribution' and 'politics of recognition'. For a long time the debate on inequality and poverty was traced to the argument of socio-economic structures, that is the economy is structured in such a way that certain sections of the society suffers continuous discrimination and consequent deprivation leading to abject poverty and starking inequalities, which ultimately compound and add to their socio-economic inequalities, so the remedy lies in equal redistribution. *But with the coming up of issues like 'social justice', 'identity politics', the debate has shifted from curbing the differences to celebrating the differences.*

The concept of 'social exclusion' tries to materialise on the 'politics of difference' and thus demands recognition of those differences. Social exclusion can be conceptualised as one of the different ways in which 'disadvantages' operates in the societies so as to circumscribe the opportunities and life chances of the individuals and groups in the society. *Social exclusion becomes operational due to identity based forms of disadvantages, which gets reflected in the cultural devaluation of certain groups and categories of people in the society merely by virtue of 'who they are' or 'who they are perceived to be'. The mechanism of cultural devaluation occur through the construction of the members of these groups or categories by dominant sections of society as persons of lesser worth, and thus leads to their being stereotyped and stigmatised in a particular way.* When these social hierarchies

become functional in the society they become systemic and structural in nature, which requires not only legal injunctions of 'protective discrimination' as a remedy, but also the spaces to exhibit 'cultural autonomy', to be treated with 'respect and dignity' and thus the 'politics of recognition of the differences'. The "denial of human rights- a universal and pervasive evil is the genesis of all social exclusions. The matrix of social exclusions involves a complex array of cultural, economic, political, religious and ethnic injustices that are practiced on various levels and different degrees."[1]

D. N. Sandanshiv, a jurist belonging to scheduled caste observes that, In 1947, on independence of India, Hindus got India, Muslims got Pakistan, and the scheduled castes and the scheduled tribes got reservation. The statement is a strong one and emphasises upon the seriousness of the issue which is at stake. The debate on affirmative action assumes two forms (a) Politics of presence, which implies the system of reservation, meaning, that it is necessary to have the physical presence of the representatives of the socially excluded sections of the society in the legislative bodies and other key institutions so that opinions of the oppressed classes are tabled and taken into consideration, since one cannot depend on the benevolence of the elite sections. (b) Politics of empowerment, representation alone cannot translate into empowerment of the oppressed classes and thus there is a further need to implement certain other welfare policies which might translate into empowerment. Thus, we need a double pronged approach, one from below and another from above, so as two have a restructuring of the society at large and changing of the equations of oppression into one of mutual interdependence.

The debate on social justice has taken a different turn, "its normative aims no longer appear to be the elimination of inequality, but the avoidance of degradation and disrespect; its core categories are no longer 'equal distribution' or 'economic equality', but 'dignity' and 'respect.'"[2] Eminent scholars like Nancy Fraser, have argued that a simple 'politics of distribution' is not enough and that it needs to be supplemented by a 'politics of recognition'. She argues that,

> *"In one version group differences are pre-existing being cultural variations that an unjust interpretative schema has maliciously transformed into a value hierarchy. In another version, group differences do not pre-exist their hierarchical transvaluation but are created contemporaneously with it through a discursive framework of binary opposition. Depending on the version in question, the politics of recognition assumes either of two aims: in the first case, it seeks to celebrate, not eliminate,*

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[1] Mohan, Brij (2007). "Social Exclusions: Challenges for New Social Development." *Journal of Comparative Social Welfare*, 23:1, 69-79.

[2] Honneth, Alex, (2001). "Recognition or Redistribution?: Changing Perspectives on The Moral Order of Society." *Theory, Culture and Society*. 18:43.

group differences; in the second case it aims to deconstruct the very terms in which such differences are currently elaborated."[3]

The Tribal Identity: A History of its Consolidation, Politicisation and Consequent Social Exclusion: Democracy in India is by far the most successful story in the third world scenario, if we go by the comparisons made with the other third world countries, but its internal analysis reveals a paradox. The idioms of 'cultural autonomy' and 'protective discrimination' has led to the consolidation and reification of certain identities, namely the tribal identity which has adopted the extra-constitutional methods of asserting their identity and has launched movements of separatism and self-determination, this sub-nationalism orchestrated by the tribals is definitely plaguing the Indian democracy, but the story is not so simplistic as it appears to be, indeed the tribal situation in India has been a very complex one. In order to analyse the complexity of the issue we need to break it up into components, analyse the components and then bring them into a comprehensible relation, in order to find out a solution out of the impasse.

In the earliest phase, most of these tribal communities lived in self-sufficient villages with a distinctive polity of their own, based on the principle of communal ownership and equality of membership, the polity was headed by the village headmen and his lineage, though this was not the case everywhere. These so-called aboriginal tribes passed through their first phase of violent confrontation with the Aryans, which initially resulted in their partial absorption with the dominant immigrants at the lowest social level and partial retreat from the plains into the relatively inaccessible hilly and forest tracts. In this process, it's quite possible that many of the ancient tribes passed through a phase of secondary primitivization from a higher socio-cultural level and thus their consequent social exclusion both in the geographical sense and socio-economic dimension.

 The tribals were still relatively living peacefully with other communities in the pre-colonial period but with the advent of British colonialism situations started up-mounting and reached its climax in the post-independence period. The Britishers introduced a uniform administrative system for the whole of British India and thus tried to integrate the so long isolated tribals into the mainstream society. In the post-independence period the Indian state tried to provide protection to the tribals but was half-hearted in its effort, one reason for this might be that the Indian state could not understand the heart of the tribal problem and the other reason is that it could not revert the process of rise of sub-nationalism among the ethnic tribals because of the process of politicisation that had already begun in the British-colonial period and thus could not be reverted. The socio-economic changes which the tribal community underwent during the welfare and developmental phase of the Indian state has led to their further politicisation and social stratification, which has given rise to movements of separation and movements for autonomy.

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[3] Fraser, Nancy (1996). "Social Justice in The Age of Identity Politics: Redistribution, Recognition and Participation." The Tanner Lectures on Human Values, Stanford University.

The interaction with the colonial and post-colonial state induced certain structural changes which directly impacted the tribal community. The imposition of a uniform administrative setup, policy and programmes had put an end to the political dominance of the tribes in the region and then changes in the agrarian pattern, production relations, pattern of landholdings due to which their economy and political system were undermined by the rampaging market forces. Two important agrarian developments also took place in the tribal region of middle India during the 19th century. The first was the rapid disintegration of the communal character of tribal villages, and the introduction of cash based economy. The village headmen were given the responsibility of collecting land revenues. In the latter part of the 19th century land alienation from tribal to non-tribal communities assumed large proportions, this period is also marked by the influx of large groups of outsiders into the tribal region. To stop this problem of land grabbing by the non-tribals, the colonial government passed the land-alienation act. Another important aspect was the work of the Christian missionaries, who took the task of 'civilising the uncivilised', and there by stimulating among the tribals a consciousness of their past and present exploitation, and their rights and privileges and thus they played a major role in politicizing the tribals.

The colonial period witnessed a number of tribal uprisings, in which a large number of tribals also took part. The movements mobilized large masses who protested against the oppressive structure built by a new rising class in the wake of colonial administration. These structures included the new legal system, revenue administration, evangelization and money lending. All these rebellions were defensive movements, the last resort of the tribals, as they were driven to despair by the encroachment of outsiders on their lands and economic resources. The Santal insurrection of 1855 was the watershed between the two phases of the tribal movements and as such it shared the characteristics of both the resistance and the agrarian revivalistic movement of the second phase. The movements of the second phase were far more complex in nature and were motivated by a mixture of agrarian, socio-religious and political issues. These movements represented attempts by tribals to prop up their traditional polity with some reforms; they were also revitalization movements. The Santal rebellion gave political expression to the concept of restoring the tribe's mythic golden age.

In many parts of middle India agrarian issues were over shadowed by forest issues. Implementation of new forest conservation laws aggravated the economic difficulties of the tribals. Nationalist leaders in some of the tribal regions launched a series of forest satyagrahas in the 1930's to demand the restoration of the customary rights of the tribals to extract timber and collect forest produce for their own consumption.

All this led to the emergence of autonomy movements even during the British period and it was in the Chotanagpur region that the most sustained movement for tribal autonomy continued. By the mid 1940's the incipient tribal elite had grown in size and effective on account of the educational effort of the missionaries. The elite demanded for the tribes a share in the administrative process, followed by autonomy for the tribal areas. They

attempted to mobilize the tribal masses on the basis of ethnic identity and challenged the dominance of the 'dikus' in the region. In anticipation of constitutional changes they sought guarantees and safeguards for the tribal population.

The tribals received little support from the British administration, though it is not strictly true that at the higher levels there was no awareness of the tribals problems, but since not all administrators were equally sensitive however and thus there was no continuity and direction in tribal policies, the good work done by one officer was allowed to be undone with the passage of time. The policy of isolating the tribal areas from the incursion of outside elements did not succeed. On account of large scale alienation of tribal land and the growing pressure of population, landlessness, among the tribals began to increase and the process of proletarianization set in. *In short, tribal policy during colonial rule oscillated between the oppressive and the protective.*

The need to provide adequate safeguards for the tribals was again extensively discussed in the constituent assembly the nationalist opinion favoured incorporation of far more radical provisions for safeguarding the tribal interests in the forms of the 5th and 6th schedules of the constitution. The geographical location, economic backwardness, lack of education, social fragmentation, and distinctive ethnic, linguistic and religious affiliations contributed to their constitutional classification as scheduled tribes. The process of protective discrimination which provided reserved seats for tribals in national and state legislative bodies and in educational institutions and the administrative services was intended to integrate them into the main stream of Indian society. The formulation of the fifth and sixth year plans showed perception of (a) the deleterious effects of the disturbance of the environment consequent upon the intensive exploitation of the natural resources of tribal regions on the tribal communities (b) the growing incidence of exploitation of the tribal people, their loss of land, their indebtedness, their transformation from peasants into labour, particularly in the zones of intensive agricultural activities (c) the diversities of tribal situations, which called for a more area specific approach to planning and development. A plethora of legislation has been enacted to prevent alienation of land, regulate money lending, abolish bonded labour system and organise labour. There have been extensive initiatives to develop communication, health system, and education.

The Indian state has tried to empower the tribals by way of improving agriculture and introducing green revolution schemes but the beneficiaries of these were not predominantly the tribals , instead the non-tribal cultivating castes living in the tribal areas. Centres of industrialisation have grown up in many pockets of tribal areas in middle India but rather than extending the benefits of the modern sector to the tribals, these island-like complexes have contributed to the destitution of the tribal and semi-tribal group. The difficulties of the tribal people begin with their displacement from their villages to make way for the industrial site. They are dislodged from their traditional sources of livelihood and places of habitation. Compensation paid to them is quickly exhausted, forcing them to join the ranks of landless labourers without training, equipment or aptitude for skilled or semi-skilled jobs.

The social impact of industrialisation has also been profound, loosening family ties and weakening the traditional obligations,

> *"Land is the primary source of livelihood for the tribals. Land based livelihoods have assumed added importance with the depletion of non-timber forest produce. Land alienation in its broad sense is among the major causes of impoverishment of tribals: occupation by non-tribals; reduced access to forest based livelihoods; reservation of forests and restriction on shifting cultivation; land administration policies; and displacement by development projects"[4]*

The above are some of the issues that form the core of the tribal problem. Another highly concerning consequence of industrialisation has been the sexual exploitation of unsuspecting tribal women by unscrupulous contractors, petty-businessmen and project officials. Other attempts to reduce the isolation of the tribals has also added to their grievances against outsiders. A lot has been invested on the aspect of education, but still the efforts have been lop-sided because the post-matric scholarship cater to the needs of a smaller group of students who have reached the universities. *On account of the bulk of resources being diverted to this elite group, the educational achievement for the tribals appears to be an inverted pyramid*. Even the provision or reservations has not benefitted the tribals in a substantive way, the past thirty years have witnessed some gains from the reservation policy but an achievement of adequate representation cannot be claimed. A closer look reveals that the representation is clustered in certain services, departments and grades. Moreover the beneficiaries are concentrated in some of the larger and more advanced scheduled tribes. The bulk of the posts are filled by the Christian tribals who are generally better educated. Among the non-Christian groups, the more numerous communities such as the munda, oraon, ho and santal in west Bengal, Bihar and Orissa are the main beneficiaries, in Madhya Pradesh most of the beneficiaries are the gonds; in Rajasthan the minas corner most of the posts, particularly at the higher levels.

Contemporary Scenario: PESA 1996 and FRA 2006: The tribals in India have faced exploitation, cultural exclusion, dispossession and displacement in the name of industrialisation and development, and have been denied their livelihood resources in the name of forest conservation and regulation. This has been the story of their plight both during the colonial period and also post-independence. The Indian state carried on the legacy of the colonial period and continued with forest regulation and there by denying the tribals of their livelihood resources.

Historically, the relation between the tribals and the forest can be seen as symbiotic, "Characterised by coexistence and these communities were considered as integral for the survival and sustainability of the ecological system. This symbiotic relationship was

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[4] Rao, S. Laxman, Priya Deshingkar and Jhon Farrington. (2006). "Tribal Land Alienation In Andhra Pradesh: Process, Impacts and Policy Concerns." *Economic and Political Weekly*, Vol.41, No. 52, pp. 5401-5407.

acknowledged as customary rights over forest produce."[5] *This symbiotic equation got disrupted with colonialism and got further perpetuated by various legal mechanisms of the Indian state. With the colonial government started the commercialisation and scientific management of forests.* The Forest Act of 1864 led to the establishment of Forest Department in India and gave the colonial power the authority to declare any land as forest land. The act was further strengthened in 1878 and led to classification of forests into 'protected', 'reserved' and 'village forests'. The national forest policy of 1894 further restricted the rights of the forest dwellers by putting restrictions on the forest dwellers by curbing their rights for collection of fuel, fodder, and other means of livelihood. The land acquisition act of 1894 gave further powers to the government, to acquire any land for 'public purpose' with minimum or no compensation. The Forest Act of 1927 maintained the same status-quo and denied the tribals their customary rights over the forest land and its produce.

After independence the Indian state took forward the colonial legacy. The Forest Policy of 1952, Wildlife (Protection) Act 1972, Forest Conservation Act 1980 were all steps in this direction. The Department of Environment was established in India in 1980 for the purpose of ensuring a clean and healthy environment but was subsequently upgraded and renamed as Ministry of Environment and Forests in 1985.

The period of 1980's marks the emergence of environmental movements, emergence of public interest litigation by various environmental organisations, social activists, networking, and coalition building between different organisations, all leading to create pressure on the legal structures to recognise the customary rights of the tribals and other forest dwellers. The National Forest Policy of 1988 was a step in this direction and led to the Joint Forest Management Programme in 1990, based on the idea of cooperation between the Forest Department and the Tribal communities in the management of the forest but this initiative couldn't bring any productive results at the ground level.

It was during this period that the commissioner of Scheduled Castes and Scheduled Tribes, Dr. B. D. Sharma, a retired I.A.S. officer of the Madhya Pradesh cadre, submitted the 29th report (1987-1989) to the President of India, wherein he high-lighted the plight of the tribals in India and recommended a framework for resolving the issue. In the meantime the Ministry of Rural Development constituted a committee headed by Mr. Dileep Singh Bhuria, a tribal member of the Parliament, to make recommendations on the salient features of the law for extending provisions of Part IX A of the Constitution of India (Panchayats) to Scheduled Areas (tribal areas identified for special protection, mentioned in the fifth schedule of the Constitution). The committee submitted its report in 1995 and argued for "the legal recognition of the Gram Sabha as the primary centre of tribal governance. It also recommended that the long-standing demand of tribal control over productive land and forests should be conceded to and administrative interference in their affairs should be

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[5] Bhullar, Lovleen (2008). "The Indian Forests Rights Act 2006: A Critical Appraisal", *Law, Environment and Development Journal,* Vol. 4, No, 1, P. 20-34.

minimised."[6] This report led to the passing of the Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA,1996), which recognised the rights of the tribals to self-governance and also recommended the prior consultation of the Gram Sabha or the Panchayats before acquiring land, minerals etc. in Scheduled Areas, but the actual implementation of PESA has been far from satisfactory.

A Ministry of Tribal Affairs was created in 1999 to look into the matter and make recommendations for a better policy. The Ministry together with other legal specialists, representatives of civil society and social activists drafted and submitted the report which was presented in the Parliament as Scheduled Tribes (Recognition of Forests Rights) Bill, 2005. The bill was referred to a Joint Parliamentary Committee which submitted its report in 2006. Finally the bill was passed by both the houses and took the form of 'Scheduled Tribes and Other Traditional Forest Dwellers (recognition of forests rights) Act. 2006 (Forests Rights Act 2006 or FRA 2006).

The main features of the act are:
- Expansion of the beneficiaries: the act not only recognises the scheduled tribes but also the non-tribal other traditional forest dwellers who are dependent on forest for their livelihoods.
- Right to forest land: the act delineates the grant of several heritable, inalienable, non-transferable 'forest rights' to the beneficiaries thus providing them with a security of tenure and permanent ownership rights. The bill had envisaged the recognition of occupation of forestland to a maximum of 2.5 hectares per nuclear family of a FDST which was later on changed while passing of the act. Thus the act provides for a maximum area of four hectares of forest land under actual occupation of an individual or family or community. The bill had adopted 25th October, 1980 as the cut-off date which was later on changed while the passing of the act. The act specifies 13, December, 2005 as the cut-off date for recognition of the land rights. Implying that all those who have been cultivating before the cut-off date can have a right to the land. No documentary proof was necessary for those who had been cultivating land up to four hectares, as long as it was done to satisfy their own needs. People who had taken up the land on lease and whose land had been forcefully and illegally taken up by the forest department and was subject to dispute could now claim title to these lands. However this land cannot be sold or transferred except for the right of inheritance.
- Right to use the forest resources and forest land: The inhabitants will have the right of ownership, access to collect, use and dispose of minor forests products (which includes all non-timber forest produce of plant origin).
- Forest conservation rights: The inhabitants will have the right to protect, regenerate, or conserve or manage any community forest resource which communities have been traditionally protecting and conserving for sustainable use.

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[6] Bhullar, Lovleen (2008). "The Indian Forests Rights Act 2006: A Critical Appraisal", *Law, Environment and Development Journal,* Vol. 4, No, 1, P. 20-34.

- • No arbitrary dislocation: The inhabitants cannot be relocated without due consideration of the guidelines laid down for this purpose. It must be proven scientifically that such a relocation is necessary keeping in view the safety of the inhabitants and that their human intervention can harm the animals. The locals must be convinced with such relocation and that such a relocation should not only provide them with a better and new place to live but also ensure livelihood for these relocated people.

The act is facing serious bureaucratic challenges at the level of implementation and conflict with other legislations. Clash of simultaneous authorities of Ministry of Tribal Affairs, Ministry of Environment and Forests and The Revenue Department. Forest land with the most valuable timber were designated as 'Reserve Forests' where non-forested areas became 'Revenue Lands'. This led to the denial of customary community rights of the scheduled tribes limiting them to the collection of minor forests produce only.

Conclusion: The Stating of the Problem: Tribals in India have suffered severe economic and social exclusion. Although they have been provided with certain constitutional safeguards but still no significant economic, social, political mobility has taken place across this community. They have suffered 'institutionalised forms of injustice' both from the state and the mainstream society which has tried to force them to adopt the mainstream culture and the idioms of modernity and development. The 'tribal identity' has got problematised because of its undue reification and the electoral politics involved in the issue and thus exhibits itself sometimes in the form of 'tribal movements' and sometimes as assertion of 'cultural autonomy', but still the tribal problem in India remains unsolved and requires some serious deliberations both at the policy making level and policy implementation level.

At the heart of the tribal problem lies the issue of contradiction between the welfare programmes and the developmental approach of the state,

> *"The large-scale development projects and policy of denial of access to forest resources were interventions of greater magnitude and scale than reservation and other affirmative action programmes developed for the welfare of the tribal people. Such intervention offset all that was desired to be achieved by affirmative action programme….hence there is nothing affirmative about affirmative action programme in case of tribes in India. Rather, there is an inbuilt depressor in the way development has been pursued in tribal India other than the North-East. Unless this is corrected development will continue to perpetuate social exclusion."[7]*

A proper analysis of the tribal situation makes it amply clear that the, "culture-contact along with the government policy towards the tribals, is responsible towards the tribal

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[7] Xaxa, Virginius. (2011). "Tribes and Social Exclusion." Occasional Paper presented at CSSSC-UNICEF, Social Inclusion Cell.

problems,"[8] "the nature of the government policy is thus to integrate the tribals in the process of capitalist nation building without sharing the profits with them. Since they have the resources, they have to be co-opted, but since they do not have the know-how, they are exploited both oppressively and hegemonically, through repression and parentalism respectively"[9]

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[8] Preet, Sagar (1994). "Tribal Problems: A Gandhian Perspective." Indian Anthropologists. Vol.24, No.2.

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