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Administrative Reform and Its Consequences in the Tribal States of 2000 in India

Robert Parkin

The article considers how certain institutional changes have affected tribals in India from a comparative and theoretical perspective. The key changes were the creation of the new states of Jharkhand and Chhattisgarh in 2000 for tribal peoples in eastern India and its impact on agriculture and forests in these areas. Also relevant are the emerging forms of 'civil society' in tribal areas. These issues are discussed in light of the history of tribe–caste relations in India and the theoretical potential of the concepts of legal pluralism, civil society, regional and national identities, and globalization.

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Introduction

In the present article, I would like to consider how certain institutional changes have affected tribals in India from a comparative and theoretical perspective. The key changes were the creation of new states in 2000 (specifically Jharkhand and Chhattisgarh) for tribal peoples in eastern India and its impact on the land issue (agriculture and forests) in these areas. Also relevant as part of the popular reaction to these reforms and to other initiatives emanating from the political centre in India are the emerging forms of 'civil society' in tribal areas, both locally and in terms of their international links with similar organizations elsewhere and with western sympathizers and supporters. I discuss these issues with reference partly to the history of tribe–caste relations in India, and partly to the theoretical potential of the concepts of legal pluralism, civil society, regional and national identities, and globalization to make sense of how these relations are developing.

One way of approaching these recent changes in India is through the theoretical notion of legal pluralism, which in India takes the form of interaction, often

conflictual, between official (British, republic) law and tribal custom, as well as between central government administration and state governments and assemblies. Although the origins of conflict between official law and tribal custom in India go back over two hundred years, they are no less actual today, and indeed are continually assuming new urgency. There are two reasons for this. One is the political project of one major political party, the Bharatiya Janata Party (BJP), to unite all India's disparate population elements, including tribal peoples and Moslems, into a single nation whose leading idea is *Hindutva* ('Hindu-ness'). The other is India's economic and military project of becoming a regional superpower in the 21st century ('India's century') – which involves it having unrestricted access to the state's resources, many of them now under tribal land. As a consequence of both these factors, the potential for conflict is continually increasing rather than diminishing. At the same time, a certain globalization of civil society is exposing tribal peoples to a similarly globalized legal culture and discourse, which may conflict with their own separate traditions.

The notion of legal pluralism obviously has its roots in the embryonic anthropology of law that started with Henry Maine, but then largely became congruent with, even absorbed by, functionalist anthropology generally, with its primary focus on social rules and norms (reaching its apogee in Radcliffe-Brown's anthropology, e.g. Radcliffe-Brown 1952). Even later work on legal anthropology, as by Moore (Moore 1969; Moore 2001) or Pospisil (Pospisil 1971), can be seen as struggling, to some extent, to carve out a space for itself within this environment. Since then, however, there has been an increasing awareness that both colonial domination and post-colonial changes have brought legal ideologies and systems into contact, and therefore partially into conflict. As a result, anthropology is now virtually compelled to treat law as yet another multi-polar and partially fragmented field that at the same time overlaps with other fields, like political action and identity construction. Historically this pluralism is not a new phenomenon, any more than the imperial and migratory movements that have contributed to it (e.g. the expansion of Rome or Christianity into earlier communities and traditions in Europe especially). Nonetheless, with globalization now more extensive than ever and becoming increasingly so, there will be a permanent place for the study of legal pluralism, which has contributed extensively to the revival of a distinct anthropology of law since the demise of functionalism.

Also of relevance, however, is the connection, and possible conflict, between nationalism on the one hand, and both globalization and the emergence of regional identities on the other. There has been much work recently on the new nationalism in India and its response to globalization, as well as its 'strengthening' of the nation by unburdening the central state of certain public functions, which here especially means public control of industry and economic autarchy (e.g. As-

sayag 2001; Bayly 1998; Corbridge, Harriss 2000; Hansen, Jaffrelot 1997; Hansen 1999; Khilnani 1998). Also relevant is the notion of civil society, since this is the context in which many activities with a global dimension take place.

Globalization is a major issue in social science discourse at the present day. This can be conceptualized on many levels, perhaps at a minimum relating to:

- formal international political integration and co-operation through the United Nations etc.;
- global trade flows, industrial relocation and other cross-border economic activity;
- links between unofficial political groupings of all sorts (political parties, pressure groups, insurgencies);
- culture (the Internet, MacDonaldization etc.).

Of these, the first is generally speaking the most official and bureaucratized, while the others are progressively less formal and organized, and they may all be seen as involving civil society to a greater or lesser extent. I suggest that the significance of the third tends to be neglected in the social sciences, except in the very particular area of international terrorism, especially post-September 11th. Nonetheless, indigenous people's organizations are now fully part of the globalized world and are of obvious interest to anthropologists. While the impact and extent of globalization may be exaggerated, it does therefore enable regional or sub-national centres to engage with one another across national borders, without necessarily referring to the nation state at all. In Europe, this is now an established fact in the context of European integration and is even being officially encouraged by Brussels, if not always by national governments (Harvie 1994; Parkin 1999; Parkin 2013a; Parkin 2013b (forthcoming)). Here, this combination of the global and the local has begun to attract the jargon word 'glocalization'. However, it is also appropriate elsewhere, including India. For example, one organization supporting tribal identities and indigenous rights in Hazaribagh, in the new state of Jharkhand, has developed contacts with similar fourth-world, 'indigenous' voices, not only elsewhere in India, but also Aboriginal groups as far away as Australia (cf. Parkin 2000). Clearly it has done so as part of civil society, not as an official structure, which indeed it sees itself as being opposed to, for reasons to be discussed later.

The notion of civil society has itself, of course, been questioned from a number of intellectual perspectives. In part this is because of typical social-science problems in adequately defining it, and in part because of very real doubts concerning its applicability to all ethnographic contexts that seem appropriate at first sight (an important collection is Hann and Dunn 1996, which is particularly interested in the last question). I suggest that it must be retained, however, not least because, in India as in Europe, it has firmly entered the very discourse of

those to whom it is most usually applied, namely NGOs (using this term in a wider sense than simply 'development'), pressure groups, and other free associations of individuals that are unofficial but still legal in an open and democratic society. In fact, since the cases mentioned above effectively concern international links between civil societies in different nation states, what now appears to be at issue is a degree of globalization of civil society itself.

One question is the place of the nation state in these developments. In Europe, the demise of the nation state has been predicted by some (Harvie 1994), and it has certainly lost power to Brussels directly, as well as through the privatization of national economies and the retreat from welfare provision. But it is easy to exaggerate this weakness. For politicians of a Thatcherite tendency, this may actually be seen as a policy of strengthening the state by freeing it of burdensome functions that also, it is claimed – in the case of nationalized industries, for example – consolidate opposition to the state from nation-wide trade unions and other pressure groups. Also, despite the transfer of certain powers to Brussels and a degree of collusion between European institutions and regional forces, the European Union is still based constitutionally on treaty arrangements between the sovereign states that are its members.

India, conversely, has fully retained its sovereignty in respect of supra-national bodies. Here, administrative devolution has more to do with an ideology of nationalism that is concerned to incorporate all elements of the population, including semi-neglected tribals, into the nation and its structures. From the centre's perspective, therefore, the new tribal states represent not the recognition of separatist forces, but a form of 'uplift' that will strengthen the nation as a whole. While France, for instance, has deliberately decentralized in a way that does *not* correspond to traditional regional identities, the last BJP-dominated government in India sought precisely to ally itself with such identities. These are, of course, at least in part, new creations based on a generalized view of 'tribals' for which a tradition has been provided to some extent retrospectively. Rather like Aosta in Italy, therefore, or Catalonia in Spain (apart from recent agitations for complete independence), from the perspective of the centre granting a degree of autonomy is seen as a way of drawing a region away from a more radical separatism.

Another issue is the place of religion in recent developments in India, especially as the BJP is conventionally characterized in the west as a 'Hindu fundamentalist' as well as a 'Hindu nationalist' party. However, there is a clear danger of stereotyping here. Given especially that nationalism is itself a form of transcendence that is both this-worldly and largely non-materialistic, the temptation to represent nationalisms that seemingly invoke a particular religion as inherently other-worldly must be guarded against (cf. the tendency to confuse Arab nationalism and Islamic radicalism in the Middle East). At the very least, conflicts

between religious identities – as in Northern Ireland or Bosnia, say – seem to treat religion as a symbol of identity rather than a set of doctrinal or theological issues to be fought over (indeed, the Northern Ireland conflict is also symbolized as a constitutional one between republicans and loyalists). Admittedly in India the BJP and similar organizations appear to oppose themselves to other religions like Islam and Christianity. However, these are presented as alien to secular India as much as to Hinduism per se. In any case, Hindu organizations often represent *Hindutva* in terms of civilization rather than religion, and their version of Hinduism is remarkable chiefly for its minimalism, necessary if any semblance of unity is to be achieved with respect to such a pluralistic religion. These considerations should at least pose a question mark over the extent to which specifically religious notions intervene in the BJP's policies and activities, especially with respect to the new states and their place in the new India. Indeed, the moves to carve a new state of Telangana out of Andhra Pradesh and to establish another new state of Gorkhaland in the Himalayas indicate that this process is far from complete, not only as a way of satisfying local claims to identity, but also in the hope of improving standards of governance, and even of living.

The Question of Definition: What is a Tribe?

Although the bulk of the Indian population of well over one billion sees itself as forming part of the caste system, close to 100 million people (about 8% of the total population) are defined by some criterion or other as so-called 'tribals' (a common description of tribespeople in India). They live in most regions of India, including Gujarat and the south, but are especially concentrated in the far north-east (Assam and surrounding states), Jharkhand (a new state broadly covering former southern Bihar), Orissa, Madhya Pradesh and Chhattisgarh (another new state). It is these latter areas (Jharkhand etc.) with which I am mainly concerned here. In addition to the references given at specific points below, more general overviews are Areeparampil (Areeparampil 1995), Lourduswamy (Lourduswamy 1997) and Mullick (Mullick 2001). I shall draw on these works in what follows without necessarily referring to them again. I shall also use the results of some field research I myself carried out in Orissa in early 1998 (see Parkin 2000).

Before distinguished anthropologists like Louis Dumont and McKim Marriott began to encourage their colleagues to look more at the caste society and Hinduism, tribes formed the main focus of early, often amateur anthropology in India. This went along with a view of them as backward, primitive, the earliest 'pre-Aryan' inhabitants of India, etc. This has led to a situation in which academic definitions of who does and does not count as tribal have become a matter of convention and even intuition rather than either concrete sociological features

or self-ascription. This is especially significant as regards the difficult matter of the distinction between caste and tribe (Dumont, Pocock 1957; Dumont, Pocock 1960; Bailey 1959; Bailey 1961).

However, this trend has also entered general political and other discourse in India, though without necessarily amounting to a demand for separatism. Successive, generally assimilationist Indian governments (especially those of Congress and the BJP) have refused formally to recognize the existence of indigenous peoples as such and sustain a view of a basic continuity between tribe and caste. Nonetheless, they are to some extent compelled to acknowledge a conceptual difference for legal and administrative reasons (see further below). This translates into an official view – enshrined in a famous suggestion by Ghurye, an Indian anthropologist writing shortly after Independence in 1947 – that tribals are simply 'backward' Indians in need of 'uplift' or development, not indigenous peoples with legitimate demands for autonomy, much less independence. Although they might be conceded some cultural peculiarities of their own, it is felt that they should be satisfied with these as an expression of difference. Even Louis Dumont, an infinitely more circumspect anthropologist of India, referred to the tribes hardly any more realistically, though certainly more diplomatically, as 'merely peoples who have lost contact' (Dumont, Pocock 1957). For many such peoples today, however, a strong identity as a tribe is basic. Thus many Santal are doing relatively well out of preferential legislation originating in Delhi while insisting that, being a tribe, they count as 'the original Indians', who were living in Chhotanagpur (southern Bihar and easternmost MP) long before caste people. As a result they claim administrative autonomy, though not necessarily the total independence that is demanded by certain tribes in the north-east (Nagas or Mizos, e.g.). The strong identity of some tribals (e.g. Santal, Bhumij, Raj Gonds) is nonetheless partly based on traditions of past kingdoms.

To avoid this confusing and heavily politicized situation, it is tempting for the academic to look at what might be called 'objective features' in an attempt to define the tribe. Sociologically, however, definitions of 'tribe' are no less difficult, because virtually any feature one might choose as the basis of such a definition (e.g. the predominance of agriculture, the indirect nature of access to land for some villagers, particular aspects of religious practice, the consumption of meat and alcohol, cousin marriage, brideprice) can also be found somewhere in the caste society too (Parkin 1992: Ch. 1). Conversely, certain traits of the caste society, such as the division of labour, a sense of hierarchy and rules about commensality, can also be found among tribals on occasion, including those with a strong identity as such. Not even Bailey's suggestion that there is a 'tribe–caste continuum' (Bailey 1959; Bailey 1961) avoids the need to define the poles at either end of that continuum in the last resort.

In any case, it is no longer possible to ignore the political aspect of these definitions. I have suggested elsewhere (Parkin 2000) that the self-ascription of individual groups by and for themselves is really the only option in this regard. This is not least because, as my own field enquiries in 1998 showed, while some peoples do have a strong identity as tribes or *adivasi* ('original people'; e.g. Santal, Munda, Ho), others whom outsiders (anthropologists, administrators, tourists) regard as canonically tribes may actually define themselves as *jati* (literally 'type, stock') – in this context, that is, as castes (e.g. Juang, Bhuiya; Parkin 2000). Again here, we see different levels of identity. As already remarked, the Santal are unambiguous about their tribal status and oppose it to official definitions by calling themselves Indians while denying at least upper–caste people that status. The Juang and Bhuiya, conversely, accept some 'tribal' features, such as dancing and youth dormitories, but tend to be more ambivalent in seeking a greater degree of assimilation, which extends to the adoption of an artisan occupation (basket-making) in the case of some Juang. Their view of themselves therefore approximates more to the official view that there is a basic continuity between caste and tribe.

Official definitions are nonetheless significant, since they constitute one pillar of a form of legal pluralism in India. For many decades in India, dating back to the late British period, certain population groups have been identified respectively as tribals (Scheduled Tribes), untouchables (Scheduled Castes) and as disadvantaged (Other Backward Classes) in special schedules attached to the Indian constitution and in certain other legislation. Those groups falling under these provisions are entitled to take part in special quotas for their groups in terms of government employment and university places, and some constituencies are reserved for MPs from the respective category. In addition, tribals are exempt from certain laws, for example, the provision of the Hindu Marriages Act of 1947 that prohibits polygyny. Access to Scheduled Tribe areas (the so-called 'Scheduled Areas') is often officially banned to outsiders, less in the interests of protecting the tribals, as is often claimed, than of preventing 'agitation' among and by them. In practice, many of these are now actually areas of mixed tribe–caste population, such as the Juang's 'village of origin' of Gonasika in Orissa. These special measures are strictly implemented in proportion to the tribal etc. population of a constituency and only enacted for a decade at a time: they therefore hardly amount to a policy of positive discrimination as conventionally understood.

Originally designed to help these supposedly backward or disadvantaged groups make progress in Indian society and economy, these provisions have relied on similarly conventional and intuitive definitions of tribes etc. as criteria for inclusion in the relevant schedule. Inevitably they have not worked as planned, partly because of the usual problems with multi-cultural policies, but not least

because some tribes have been able to benefit more than others (e.g. Santal tend to be over-represented among tribal students in Orissan universities, though they are a large tribe in demographic terms). In addition, these provisions have themselves conditioned the definitions they express: some groups have collectively decided to claim or revert to tribal or untouchable status to get themselves on to the respective schedule and obtain benefits under it. There is thus a political aspect to these definitions too: they have long since ceased to be purely conventional or intuitive, if in truth they ever were. Scheduled Tribes often consider the Scheduled Castes to be 'indigenous peoples' (i.e. pre-caste, 'pre-Aryan') like themselves, as the latter indeed sometimes claim to be, though this has rarely been translated into common political action. One reason for this is that tribal organizations have limited patience with the Janus – faced nature of groups that claim 'indigenity' while simultaneously assimilating as (inevitably low) castes. It is noticeable that it is groups with strong self-identities as tribes (e.g. Santal, Munda, Oraon, Ho) that are the mainstay of tribal political movements and organizations, not those that are tempted by some degree of assimilation, like the Juang and Bhuiya, much less those who have in effect become low castes in adopting an artisan occupation (including, indeed, some Juang).

The Land Question

The above definitions are also important for access to agricultural land and forests in tribal areas. This problem goes back at least to the early British period, though it has lost none of its relevance today. As far back as the 1770s, the British were interfering with entitlements to land in at least three different senses. First, they encouraged certain tribes to enter new territories on occasion: for example, they moved the Santal into an upland area of Bengal (later itself transferred to Bihar), which has since become known as the Santal Parganas, in order to replace local castes, who had been considerably reduced in numbers by the famine of 1770. This was naturally of some benefit to the tribals, whom in general the British sought to protect once resistance had been crushed. Nonetheless, and secondly, the British also allowed, sometimes even encouraged, caste populations to take up residence in tribal areas, to the detriment of the tribes. In many areas, this actually represents the earliest historical settlement of castes in any numbers. Tribals referred to these intruders as *diku*s or 'outsiders' (a term mostly applied to the upper and middle castes rather than to untouchables, for reasons already given). Along with the *diku*s came Hindu moneylenders, who still today often acquire tribal land in settlement of unpaid debts.

Thirdly, the British altered the legal basis of traditional land rights. In caste-dominated areas, these had generally taken the form of the piling up of different classes of rights, mainly over irrigated land, from the king down to local peasant

proprietors, a system that did not constitute ownership of land in the modern and/or western sense. In tribal areas, on the other hand, the model was rather one of communal use rights over land held by a whole village pursuing slash-and-burn cultivation in common. In Bihar, these rights in land were generally known as *khuntkatti* rights (from Munda *khunt*, 'lineage'). In both tribal and caste areas, the British frequently replaced these rights with western ideas and practices of absolute ownership of land in the form of either peasant allods or tenancies held of landlords (called *zamindar*s or *thikadar*s) by peasants (*raiyat*s). *Raiyati* categories of land-holding actually date back to the Mughals, under whom they were linked to the payment of revenue to the ruler rather than rent to a landlord: they therefore excluded most tribals, who typically did not pay revenue. Although some tribals did secure title to land through the British reforms, the landlords were almost by definition caste people, not tribals: many of the latter were therefore reduced to dependent status as tenants for the first time. Today, the *patti*s or certificates of ownership even for many of the tribal holdings have been lost, further impairing tribals' ability to assert their rights over their own land.

Whatever the form of tenure that resulted, these changes 'peasantized' many tribals and often increased their legal dependence on the *diku*s, exerted not least through the widespread practice of borrowing money from the latter against land. Deteriorating circumstances led to a number of serious tribal revolts in the nineteenth century, for example by the Bhumij in 1836, the Ho intermittently throughout the 1830s, the Santal in 1855 and the Munda in 1895 (McDougall 1977; Derne 1985). Some Marxist writers (e.g. Pathey 1984) have sought to interpret such trends in terms of the emergence in these areas of class societies based on this peasantization, and even of trans-ethnic nationalisms, claims generally rejected by tribals themselves as not corresponding to their own view of their identity as tribes. Although these partly millenarian movements were crushed by the British, they led to increased attempts to protect tribals, such as the continued demarcation of exclusively tribal areas. It was this initial practice of separate administration that led to a policy of separate representation when democracy began to be considered for India as a whole. Nonetheless, tribespeople sometimes felt that they were better off in the so-called princely states, which were ruled by princes whose ancestors had supported the British and were therefore not subjected to direct rule by the latter. Their disappearance after independence was another source of conflict between tribals and the new government in some cases. Thus the absorption of Mayurbhanj as a princely state into northern Orissa shortly after independence led to another Santal uprising, so far the last.

The encroachments of the British period were not new in themselves, and indeed tribes already had a long history of having to choose between accommodation, even assimilation, to the caste society and of moving into more re-

mote areas to avoid such encroachments. The increase in the general population means that there are no longer really any remote areas to occupy, while assimilation is disliked by those tribes who have a strong identity as tribes. Nonetheless, at certain periods even the Santal have sought to assimilate to the caste society, at least for a time, as in the period following their failed rebellion in 1855, when they adopted caste practices in respect to food rules, marriage practices, worship of Hindu gods, etc. Later, especially after independence in 1947, they reverted to a specifically tribal identity, partly expressed in the formulation of a specifically tribal religion, *sarana*, and script, *ol chiki* (Orans 1960; Mahapatra 1977; Gautam 1977). However, as Gautam makes clear, even assimilation may not be entirely what it seems. The Santal and Munda also have a history of appropriating certain caste practices as authentically tribal cultural features, and even of turning them against the *diku*s in a form of reversal. For instance, the refusal to accept food or water in order to mark superiority, which is typical of the caste society, may be used by these tribals against Brahmans, rather than vice versa.

Another argument made by Gautam is that a strong separate identity actually helps political and economic integration into the mainstream society in a way that cultural assimilation would not. Especially in a society as conscious of hierarchy as India, the latter would most probably only bring about a very low status in the society for those assimilating (cf. Elwert 1982). To some extent, the Santal act towards questions of identity in accordance with another general project of theirs, namely their collective advancement within modern Indian society. This may involve stressing separation as a tribe on some occasions, an ability to act like castes yet still maintain a separate identity on others, and – historically at least – assimilation on yet others. In the background, though, is always a readiness to exploit official legal provisions in favour of tribal education and employment etc. The Santal have learned from experience that separatism through violent rebellion is not an option.

Tribals are by no means necessarily distant from mainstream Indian society, therefore, and many of them have probably had contact with that society for centuries through two-way trade (i.e. tribals providing forest products and labour in return for metropolitan economic products) and religious activity (the latter at joint ritual sites like Gonasika, as well as through the presence of forest ascetics in their home areas). In more modern times a tribe like the Santal have certainly sought to achieve, and to some extent succeeded in achieving, progress within it, as lawyers, officials, policemen, even military officers; a small number have emigrated to the USA. One aspect of this part-acceptance of, part-distancing from the mainstream society is that, like their peers elsewhere in the world, Santali youth have acquired cassette and CD players, with which, however, they play a new brand of specifically Santali music that owes nothing to the predominant

style of Hindi film music, nor is purely traditional Santali, but still has a basis in the latter and uses modern instruments, modern arrangements and modern recording studios in Calcutta.

Nonetheless tribals are still subject to encroachments by caste people into their areas. The modern situation is one in which the constitutional and other legal definitions of who is and who is not a tribe have acquired a particular significance for the land question. At the same time, legal changes and the abuse of existing legislation have both increased the pressure on tribal populations. Thus, for instance, while the British prohibited the alienation of tribal land in southern Bihar in the Chhotanagpur Tenancy Act of 1908, the revised Act under this name passed immediately after independence in 1947 allowed 'public purpose' exemptions for wide-ranging purposes of industry, urbanization and development generally. This has been much abused since by caste politicians, who have often used violence to expel tribals from their land on flimsy excuses and have never paid adequate compensation for it, if any.

There have also been instances in which these legal definitions concerning status have been invoked in disputes over land. In Hazaribagh in Jharkhand, both the state and central authorities, as well as certain Australian and Canadian multinational companies, have been keen to mine coal on land that people in the area claim to be tribal. In support of these efforts, officialdom claims that the groups occupying such land, such as the Kurmi, are actually low castes belonging to the Other Backward Class category, not tribes. Although the Kurmi were indeed de-scheduled as tribals in 1931, they themselves and their local supporters now maintain that they are really an 'indigenous people' and therefore a tribe, and that their land should not be taken over for mining. They have before them the example of the area around Dhanbad and Ranigunge further east, where mining started in 1774, as well as further south, in Jharkhand and northern Orissa. In these areas this process of alienation of land followed by mining has gone much further, with tribals now forced to seek employment in mines on land they once controlled (Banerjee 1981; Heuzé 1996), or even to gather coal illegally in old workings and trade it long distances away by bicycle in Calcutta and other West Bengal cities.

Access to land in these cases is thus a matter of legal definition, and up till now the tribals have been at a distinct disadvantage in protecting their existing rights. Given that a large part of India's coal and mineral ores are located in tribal areas, this situation can only get worse (Minority Rights Group International (no date)). One consequence has been an increase in internal migration by tribals in India, mainly into industrial and other urban areas. For example, Santals and other tribals have long worked in large numbers at the Tata steel-making plant in Jamshedpur, southern Jharkhand (Orans 1959), and the tea plantations of Assam

and the north-east generally have long been another source of employment. But far more have to work as day labourers or traders in the shadow economy, like those just mentioned. This is a far cry from the process of process of peasantization of tribals proclaimed by Marxists like Pathey.

This discrimination and deprivation of rights also applies increasingly to access to the forests, a traditional tribal right now largely restricted because of the demands – often conflicting among themselves – of commercial timber and other exploitation on the one hand and conservation on the other. In fact, the tribes have had no legal rights to the forests since they were deprived of them by the British in the Indian Forest Acts of 1865 and 1927. This situation has evolved into one where many tribals live on so-called Common Property Resources, equally without legal rights. This conflicts with the importance of the forests in traditional tribal economy and culture, in terms of both hunting and gathering. The Santal still hold annual ritual hunts in celebration of their identity, though forest resources are hardly any longer an option for anybody as a regular source of livelihood. In any case, the forests are disappearing at an alarming rate through logging, often illegal. This impacts especially on women, who are mainly responsible for collecting firewood and foodstuffs from the forest and are having to walk longer and longer distances to obtain them.

Outside parts of the far north-east (the tribal states carved out of Assam in the 1960s and 1970s), the communal ownership of land is no longer legally recognized in India. Nonetheless, communal swiddening and other agricultural activities still go on in many tribal villages in Bihar and Orissa, with the village headman allocating swiddens in accordance with customary regulation. Since swiddening is discouraged as inefficient and ecologically unsound by officialdom, it is frequently concealed by being located in areas away from the village, perhaps over the next hillside, where officials rarely bother to patrol.

Thus in respect to both forests and agricultural land, modern British and Indian law conflicts with tribal custom, increasingly to the detriment of tribal interests. The impact is not simply a matter of the loss of land, but also environmental, for example, mineral pollution connected with mining, and water loss and soil erosion connected with logging. In the long run, these impacts may prove at least as serious as that of constructing dams to flood tribal areas, which has tended to attract greater international attention up to now (e.g. on the Damodar river, further west in Madhya Pradesh). No less than in the Amazon, say, or other parts of the New World taken over by Europeans, or in Siberia, in India peoples who claim 'indigenity' are being internally colonized as 'fourth world peoples', though in this case by caste populations who, despite the claims of tribal spokespersons, have an equally long history in India generally.

Legal Pluralism and Political Reform

This is clearly a situation in which legal pluralism is itself a source of conflict, rather than a means of resolving disputes. The power of the Indian state is routinely used to enforce its laws at the expense of supposedly backward and certainly relatively powerless tribes who have been given no say in the matter. This is not simply a practical matter of access to resources: it also has a basis in what might be called legal and political ideologies. In general, government-imposed institutions, from state assemblies down to village panchayats (assemblies), with their competitive, majoritarian forms of democracy and party-political organization, are alien to tribal traditions of, on the face of it, non-competitive consensus-seeking that pre-date party organization (cf. Shah 2007). Of course, there is always a danger of idealizing tribal attitudes and institutions here, and it is not realistic to see the latter as always running smoothly as described. This simply means that there is an ideological component to this view that needs to be placed in its proper socio-legal context.

One consequence of this, though, is that tribals have not found it easy to manage modern forms of party democracy, even when they have been given the chance. Their efforts to launch political parties of their own have repeatedly been subject to the manipulation of other, more established parties like Congress and the BJP. In particular, the main such party, the Jharkhand Party, whose origins date back to 1938 under other names, has a long history of entering opportunistic coalitions with other parties, only to be virtually taken over by them and lose its key politicians to them (often, it is popularly suspected, though bribery). In addition, Congress has proved particularly adept at finding and exploiting issues to divide tribal populations from one another. In general, therefore, it cannot be said that tribals in these areas have benefited from modern democracy.

Nonetheless, tribal representatives are starting to resort to the law and to dominant legal and political discourses in pursuing their campaigns, while at the same time linking 'traditional' forms of customary law and administration to their own identities. Tribal demonstrations (*andolan*) along the lines of the *chipko* movement against deforestation in western India (cf. Guha 2000) are becoming more and more frequent, as well as, if more occasionally, participation in insurgencies such as those of the Naxalites (e.g. in Hazaribagh, and also further south, in the Orissa–Andhra Pradesh borderlands). As noted earlier, there are also recent international links to be considered. But also, recent administrative reforms are providing a new context for the staging of such resistance, which may seem, on the face of it, to be acting to the tribes' advantage.

The Context of Administrative Reform

Recent administrative reform has changed the political context in that many tribals in the region now have their own states, with, like other states, their own assemblies and governments. In the northeast, special states for tribals have existed since the 1960s and 1970s, such as Meghalaya, Mizoram, Tripura and Arunachal Pradesh. There has long been a demand for similar structures in the Bihar–Orissa–Madhya Pradesh region. These have traditionally been resisted by the centre, partly under the pretext that there is no single tribal language that unites most of the population in these areas – the original basis for the reform of the state system after independence.

However, the earlier reforms in the north-east have already violated this principle in part. In 2000, as already noted, two such states were set up in the Bihar–Madhya Pradesh area by the then ruling coalition in Delhi based on the BJP. One of these, centred around the town of Ranchi, was carved out of southern Bihar and incorporates canonical tribal areas such as Chhotanagpur and the Santal Parganas; it is itself called Jharkhand (literally 'forest tract'). The other state, with its capital at Raipur, revives the older regional name of Chhattisgarh and has been carved out of eastern Madhya Pradesh, including another canonical tribal area, the former state of Bastar, which is as large as Wales (cf. Parry 1999; Parry 2001; Parry 2003 on the economic consequences of the new reform in Chhattisgarh, especially with regard to trade unionism and the conflict between the new state's support for the public sector and the then BJP government's desire to privatize local industry). A third new state created at the same time, called Uttarkashi, carved out of the upland, north-west part of Uttar Pradesh, is not in any sense 'tribal' and therefore not of significance here.

As already indicated, although these reforms may appear to be encouraging autonomism, they can actually be linked to the BJP's then policy of bringing the tribals fully into the Indian nation, rather than leaving them in a limbo of neglect and semi-separation, to be converted to Christianity or (less likely in fact) Islam. In freeing tribals from control of the state of Bihar especially – which has a particularly unsavoury reputation for corruption and for upper-caste and police violence against tribals – at least the potential was being created for a more autonomous form of tribal political progress. On the other hand, the BJP's assimilationist policy, which was part of its goal of re-creating the Indian nation in the post-imperial period, must also be taken into account. For the BJP, giving tribals their own states was less a matter of freeing them from central control than of elevating them into an integral part of the Indian nation, similar to, say, Tamils or Gujaratis. In this way they could be seen to qualify for full participation in the Indian state, which they, for their part, are expected to embrace.

There is also practical politics to be taken into account. As already indicated, local tribal parties showed themselves subject to corruption and manipulation by other parties in earlier periods: whether this will change remains to be seen. The fact that it was the BJP that set up these new states does not make it, or them, a force for decentralization. In the last resort individual states are in any case potentially subject to 'president's rule', that is, dismissal and direct control by the centre, largely nullifying the supposed federalism of the Indian constitution.

Admittedly, other past experience does show that tribals can benefit, if in different ways, from such new structures. Thus the creation of the state of Meghalaya out of Assam in the 1960s for the Garo and Khasi tribes led to the emergence of several able Garo politicians, who have tended to hold their own not only against the existing parties and caste politicians, but also against their Khasi colleagues in the same state. Tribal politicians in Arunachal Pradesh have also been largely successful in keeping the caste society at bay. In general, though, the picture in the north-east is a mixed one, and the Mizos in Mizoram and Borok in Tripura, into which there has been a lot of illegal migration from Bangladesh, have been less successful in these respects. Another potential for conflict in all these areas is the extent of Christian missionization, which has divided some tribes (Kharia, Sora), while tending to unite others (Khasi), and which has also been a target of the BJP's assimilationist policies.

Conclusion

In this situation, therefore, the question arises to what extent these primarily political changes may have altered the legal situation in these areas, including tribals' capacity to defend, even recover, their existing rights to land. It is too soon to say much about these issues in the absence of conclusive research. However, it seems to me that two themes are principally at issue here, namely governance, and the nature of tribal political organizations and pressure groups and their international links. Indian tribals are clearly an example of a 'fourth-world' people in a non-Euro-American third-world state, and they are far from being the only such example. It is only by addressing such issues that their situation in the changed political and administrative circumstances of post-Congress India can be properly understood.

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2000 metų administracinė reforma ir jos pasekmės gentinėse Indijos valstijose

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Santrauka

Straipsnyje nagrinėjama, kaip 2000 m. rytų Indijoje sukūrus gentims skirtas naujas valstijas (būtent Džharkhandą ir Čhatisgarhą) šiose srityse susidurta su žemės (žemės ūkio ir miškų) problema. Straipsnyje šie klausimai svarstomi iš dalies remiantis genties ir kastos santykių istorija Indijoje ir iš dalies teoriniu są-vokų „teisinis pliuralizmas", „pilietinė visuomenė", „regioniniai ir nacionaliniai tapatumai" ir „globalizacija"potencialu.

Nors dauguma, t. y. gerokai daugiau negu bilijonas Indijos gyventojų save suvokia kaip sudedamąją kastų sistemos dalį, beveik 100 milijonų žmonių (apie 8% visų gyventojų) apibūdinami kaip vadinamieji „gentiniai" (*tribals*). Jie gyvena daugumoje Indijos regionų, įskaitant Gudžaratą ir pietinę dalį, bet ypač susitelkę toli šiaurės rytuose, Džharkhande, Orisoje, Madhja Pradeše ir Čhatisgarhe.

Šiems neseniems pokyčiams Indijoje nagrinėti galima pasitelkti teisinio pliuralizmo sąvoką, kuri Indijoje reiškia oficialaus įstatymo ir gentinio papro-čio tarpusavio sąveiką, dažnai konfliktinę. Nors šie konfliktai prasidėjo daugiau kaip prieš du tūkstančius metų, šiandien jie yra ne mažiau aktualūs. Tam yra dvi priežastys. Pirmoji – tai politinis pagrindinės politinės partijos, Bharatiya Janata Partijos (BJP), projektas suvienyti į vieną tautą, telkiamą pagrindinės *Hindutva* („indusiškumo") (*hindu-ness*) idėjos, visus skirtingus Indijos gyventojus, taip pat ir gentimis gyvenančius žmones bei musulmonus. Antroji – ekonominis ir ka-rinis Indijos projektas XXI a. tapti regiono supergalybe. Tai susiję su galimybe neribotai naudoti valstijos išteklius; šiuo metu dauguma jų yra genčių žemėse. Tuo pat metu, vykstant tam tikrai pilietinės visuomenės globalizacijai, gentiniai žmonės taip pat priversti susidurti su globalia teisine kultūra ir diskursu, kurie gali prieštarauti kai kurioms jų pačių tradicijoms.

Tačiau viena po kitos asimiliacinę politiką vykdančios Indijos vyriausybės (ypač Kongreso ir BJP partijų) atsisakė pripažinti, kad egzistuoja vietiniai gy-ventojai kaip tokie, ir remia požiūrį, kad iš esmės egzistuoja genties ir kastos tęstinumas. Pasak šio požiūrio, gentimis gyvenantys žmonės yra tiesiog „atsili-kę" indai, kuriems reikia plėtros, o ne vietiniai gyventojai, teisėtai reikalaujantys nepriklausomybės. Tačiau šiandien daugeliui šių gyventojų svarbiausias dalykas yra stiprus genties tapatumas.

Kadangi oficialūs apibrėžimai yra teisinio pliuralizmo sąvokos ramstis Indi-joje, jie vis dėlto yra reikšmingi. Indijoje prie Konstitucijos pridėtame specialiame

sąraše ir kai kuriuose kituose įstatymuose, remiančiuose pozityvią diskriminaci-
ją, tam tikros gyventojų grupės daug dešimtmečių yra atitinkamai traktuojamos
kaip gentinės („sąrašo gentys"). Iš pradžių šiais nutarimais buvo numatyta padėti
šioms, kaip spėjama, atsilikusioms ir nuskriaustoms grupėms padaryti pažangą
Indijos visuomenėje ir ekonomikoje. Jie buvo pagrįsti sutartiniais ir intuityviais
genčių apibrėžimais, kuriais remtasi įtraukiant grupes į svarbų sąrašą.

Minėti apibrėžimai taip pat svarbūs siekiant prieiti prie žemės ūkio bei miš-
kų žemės genčių gyvenamosiose srityse. Indusų palūkininkai, nesumokėjus
skolos, dešimtmečiais įsigyja gentinę žemę. Būna atvejų, kai ginčuose dėl jos
pasiremiama minėtais teisiniais gyventojų statuso apibrėžimais. Džharkhando
Hazaribaghe ir valdžia, ir kai kurios daugianacionalinės kompanijos labai troško
akmens anglies, esančios žemėje, kuri, šios vietovės žmonių tvirtinimu, yra gen-
tinė. Palaikydama šias pastangas, valdininkija teigia, kad šią žemę užimančios
grupės iš tikrųjų priklauso žemutinei kastai, t. y. kitai atsilikusios klasės katego-
rijai, ne gentims, kaip jos iš pradžių buvo apibrėžtos. Ši diskriminacija ir teisių
atėmimas taip pat vis daugiau taikoma kalbant apie priėjimą prie miškų. Viena
vertus, šiuo metu tradicinę genties teisę labai apriboja komercinė statybinės miš-
ko medžiagos bei kitų išteklių paklausa, kita vertus – poreikis juos saugoti.

Neabejotina, kad susiduriama su situacija, kai pats teisinis pliuralizmas yra
veikiau konflikto šaltinis nei priemonė išspręsti ginčus. Gentims nepavyksta, net
jei joms duotas šansas, lengvai pasinaudoti šiuolaikinėmis partinės demokratijos
formomis. Neseniai įvykdyta administracinė reforma taip pat pakeitė politinę
aplinką, ir dabar daugelis regiono genčių turi savo valstijas. Nors gali atrodyti,
kad šios reformos skatina autonomiškumą, iš tikrųjų jos gali būti susijusios su
BJP politika visiškai įtraukti gentimis gyvenančius žmones į Indijos tautą.

Tačiau čia kyla klausimas, kaip šiose srityse įvykę pokyčiai, pirmiausia poli-
tiniai, galėjo pakeisti teisinę situaciją, taip pat šių gyventojų gebėjimą ginti jiems
priklausančias teises į žemę. Straipsnyje nagrinėjamos valdymo ir gentinių poli-
tinių organizacijų bei spaudimo grupių prigimties temos. Akivaizdu, kad Indijos
gentiniai žmonės yra „ketvirtojo pasaulio" gyventojų pavyzdys trečiojo pasaulio
valstybėje, nepriklausančioje Europai ir Amerikai. Ir jis nėra vienintelis. Tik na-
grinėjant tokias problemas galima iš tikrųjų suprasti šių žmonių padėtį politi-
nius ir administracinius pokyčius patyrusioje pokongresinėje Indijoje.