



EXPULSION OF INDIGENOUS PEOPLE FROM THEIR HAVEN AND WEB OF INDIFFERENCE

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ABSTRACT

India is a country with large ethnic society. People of different faiths and ethnicities including tribal have held sway in smaller or larger parts of the country. Indigenous people who retain connection to long evolved cultures and patterns of living present a treasure of knowledge that contributes to well-being and benefit of all humankind. But it's unfortunate that everywhere they are being exploited ruthlessly; the worst thing is that the exploitation often remains unchallenged. Legal loopholes, poor enforcement of existing safeguards, bureaucratic apathy and corporate neglect of human rights try to further isolate these indigenous people and muffle their voices. The stand of India has come up for discussion in certain corners on being not supportive of the rights of marginalized people. Discussions on human rights have thrown up questions on appropriate condition of differently positioned people, be it historically, socially or economically. There is no reliable information available as to determine the exact number of cultural or linguistic groups within the indigenous communities. The central and state governments have failed to implement the provisions of the Fifth Schedule, both in letter and spirit, as envisaged in the Indian constitution. Instead, the indifferent and callous attitude of the various political dispensations has led to marginalization of the rights and autonomy of the tribal communities residing in areas governed by the Fifth Schedule. Indigenous peoples continue to

face threats, especially to their land rights: from natural resource extraction, infrastructure projects, large scale agriculture and conservation.

Keywords: Constitutional provisions, Indigenous, Scheduled Tribe, Adivasi, Marginality

INTRODUCTION

India is a country with large ethnic society. People of different faiths and ethnicities including tribal have held sway in smaller or larger parts of the country. Indigenous people are custodians of some of the most biologically diverse territories in the world. They are also responsible for a great deal of the world's linguistic and cultural diversity, and their traditional knowledge has been and continues to be an invaluable resource that benefits all of mankind. Yet, indigenous people continue to suffer discrimination, marginalization, extreme poverty and conflict the worst thing is that the exploitation often remains unchallenged. Legal loopholes, poor enforcement of existing safeguards, bureaucratic apathy and corporate neglect of human rights try to further isolate these indigenous people and muffle their voices. Discussions on human rights have thrown up questions on appropriate condition of differently positioned people, be it historically, socially or economically. There is no reliable information available as to determine the exact number of cultural or linguistic groups within the indigenous communities. The central and state governments have failed to implement the provisions of the Fifth Schedule, both in letter and spirit, as envisaged in the Indian constitution. Instead, the indifferent and callous attitude of the various political dispensations has led to marginalization of the rights and autonomy of the tribal communities residing in areas governed by the Fifth Schedule. Indigenous people continue to face threats, especially to their land rights: from natural resource extraction, infrastructure projects, large scale agriculture and conservation. The situation of indigenous peoples in many parts of the world continues to be critical: indigenous people face systemic discrimination and exclusion from political and economic power; they continue to be over-represented among the poorest, the illiterate, the destitute. The weapon of rape and sexual humiliation is also turned against indigenous women for the ethnic cleansing and demoralization of indigenous communities; indigenous peoples are dispossessed of their ancestral lands and deprived of their resources for survival, both physical and cultural; they are even robbed of their very right to live. In more modern versions of market exploitation, indigenous peoples see their traditional knowledge and cultural expressions marketed and

patented without their consent or participation.

In order to protect the interests of Scheduled Tribes Article 244 of the Constitution has made provision for 'Administration of Scheduled Areas and Tribal Areas'. On the issue of land and other social issues, provisions have been enshrined in the Fifth Schedule and the Sixth

Schedule of the Constitution. The Fifth Schedule under article 244(1) of Constitution defines "Scheduled Areas" as such areas as the President may by order declare to be Scheduled Areas.

The purpose of Scheduled Area is to preserve the tribal autonomy, their culture and economic empowerment, to ensure social, economic and political justice and preservation of peace and good governance.

The Constitution of India's framework for protecting and advancing the rights of tribal communities is amongst the most advanced in the world. The strong statutory framework is complimented by far reaching legislations including the Forests Rights Act and special provisions in Panchayati Raj laws.

Yet, realizing their rights and entitlements of forest dwelling communities in the truest sense as recent studies and evidence demonstrate, remains one of the country's biggest challenges. The stand of India has come up for discussion in certain corners on being not supportive of the rights of marginalized people.

Indigenous people were not initially substantially affected by modernization because of the geographic remoteness of their land. With population growth and globalization, however, even the most "isolated groups are now threatened by encroaching commercial, government[al] or other interests motivated by prospects of accumulating wealth from the natural resources on indigenous lands or by strategic military concerns.

Different factors of indigenous peoples lead to their relative powerlessness. These factors in turn make them obvious targets for various kinds of corruption. This vulnerability is reinforced by the fact that most tribal people use a form of political organization, which is quite different from the dominant pattern of the last several centuries.

This corruption is characterized by illegal exploitation of land, natural resources or labor of the tribal people in question. This occurs either directly by the actions of governmental officials or by these officials' tacit acceptance of such actions by private individuals. Indigenous people are often effectively outside the system of legal protection available to other members of the society.

Indigenous people have generally "been organized primarily by tribal or kinship ties, have had

decentralized political structures often linked in confederations, and have enjoyed shared or overlapping spheres of territorial control.” This vulnerability facilitates the victimization of indigenous people by the corrupt (illegal) exploitation of their resources. The most obvious of these is when government officials appropriate the land or resources of indigenous peoples for their own individual gain, in actions which are at least arguably illegal.

In many ways one type of expulsion, where the excuse is development and the prime mover is a multinational corporation is even more devastating to the continued existence of indigenous

People. Often the operations of multinational corporations, with their promise of large infusions of wealth to the government, or other beneficiaries of its largesse, lead to the wholesale displacement of indigenous people from their lands. The development activities, which have been most devastating to indigenous peoples, are logging, mining and dam building.

A verdict from India's Supreme Court had ordered 20 state governments to evict 1.5 million families living on forest land before the 24th of July, 2019. These families lived in and around 500 wildlife sanctuaries and 90 national parks; but many lived there sustainably and had protected the forests long before these areas were declared parks and sanctuaries. The decision was based on an appeal from several conservation organizations, who claimed that these peoples were the reason for deforestation and dwindling wildlife populations.

Violation of Land Rights and FPIC by Development Projects

The Indian government continues to promote policies and practices that support land grabbing, eviction of Indigenous Peoples from their lands and territories. With the aim to meet the ambitious targets of installing 175 Gigawatts of renewable energy capacity by 2022, India was aggressively pursuing the construction of hundreds of large hydropower projects across the country. This aggressive hydropower development agenda is also violating Indigenous Peoples' rights to Free, Prior and Informed Consent (FPIC) and to their livelihoods, sacred sites, and economies on lands that are flooded and otherwise damaged by projects.

Violations of Civil and Political Rights

On September 23, 2020, the Indian parliament passed a bill to amend the Foreign Contribution Regular Act (FCRA) which imposes the overbroad and vague restrictions on civil society for accessing foreign funding for smaller non-governmental organizations mainly run by Indigenous Peoples and other minority groups.

WEB OF INDIFFERENCE

While this increased recognition of the importance of indigenous cultures and indigenous traditional knowledge is a positive development, at the same time, indigenous peoples realize that they have to struggle even more in order to protect their cultures and traditional knowledge from a number of threats and challenges.

Peaceful efforts by Indigenous Peoples to maintain their cultural identity or exercise control over their traditional lands, which are often rich in resources and biodiversity, have led to accusations of treason or terrorism.

Misappropriation of indigenous knowledge

For centuries, indigenous peoples have readily shared their knowledge with non-indigenous people, seeing their knowledge not as private property to be protected, but as collective goods to be shared for the benefit of all. However, in more recent times, as they have seen how their traditional knowledge is being ever more used for profit, indigenous people increasingly demand that their traditional knowledge be protected and recognized.

There is an increasing appreciation amongst academics and scientists, as well as industrial and agricultural corporations, of the value of traditional knowledge. Entrepreneurs, too, have been quick to see the market potential, and many Western companies are patenting traditional medicines without granting due recognition to the indigenous communities whose knowledge systems went into identifying the active ingredients as useful for particular ailments.

The impact of globalization

For indigenous peoples, globalization is a mixed blessing. It both constitutes an unprecedented opportunity for empowerment and an unprecedented threat to the autonomy of their cultures. Globalization has made it easier for indigenous people to organize, raise funds and network with other groups around the world. It has also made it possible to alert and mobilize the international community in times of crisis, raise awareness about human rights abuses and have greater political reach and impact than before.

Globalization has also meant easier access for multinational corporations to exploit the lands and natural resources

on which indigenous people depend; it has opened up markets and found new ways of commodifying indigenous cultures.

Another major reason why indigenous people feel threatened by globalization is the way national governments and international institutions promote national growth through exploiting resources on indigenous peoples' lands while at the same time talking about protecting indigenous peoples' identities, traditions and cultural expressions.

Mitigation efforts

Current mitigation efforts include a whole gamut of initiatives that all have the objective of reducing the emission of CO₂ and other gases. These initiatives include bio-fuel plantations, hydropower dams, geothermal plants, etc., and a series of projects to deal with emission reductions in general and the reduction of emissions from deforestation and forest degradation in particular. Many indigenous peoples adopt a defensive position in view of these efforts as they fear they will lead to expropriation of their lands, displacement or loss of biological diversity.

Dominant development paradigms unsuited to indigenous peoples

- Indigenous peoples' societies have often been regarded as "backward, primitive and uncivilized", where their "development" is understood to be their assimilation into the so-called "civilized world."
- Indigenous peoples' cultures and values are seen to be contradictory to the values of the market economy, such as the accumulation of profit, hyper consumption and competitiveness. Indigenous peoples are seen as "obstacles" to progress because their lands and territories are rich in resources and indigenous peoples are not willing to freely dispose of them.

Lacking sensitization and empowerment of indigenous peoples in the process of Forest Rights Act.

The process of giving indigenous people recognition of their land has, however, been flawed according to many indigenous organizations. They argue that even if indigenous peoples were lucky enough to be made aware of the rights in the Forest Rights Act, the entire process of filing ownership claims was flawed for several reasons. *"We have been cultivating on eight acres of forest land for three generations, but I was given entitlement of merely seven decimals of land. How can my family survive with such a small patch of land? This is an injustice to me. I'm not going to leave my land,"* tells Bando

Munda who applied for four acres of land but only received two decimals.

Militarization and Extrajudicial Killings

The euphemism “encounters” attempts to hide the fact that these are actual extrajudicial killings or other forms of violence based on accusations that the victims are “‘militants,’ ‘terrorists,’ other criminal offenders, or for political or other reasons.”

In the state of Chhattisgarh, thousands of Adivasis have been displaced by mining. Rebel Naxals (Maoists) have been resisting the mining, and military crackdowns on the Naxals have left Adivasi villagers in the middle, subject to violence from both parties.

Torture, Physical Abuse, and Murder of Human Rights

Indigenous people face greater risks. They are often arbitrarily detained, physically attacked, ill-treated, surveilled, displaced, and killed.

The recent Citizenship Amendment Act has led to [vast protests](#) across India because it is discriminatory on the grounds of religion and is a violation of the spirit of India’s constitution as a secular nation.

This Act has been coupled with a proposal for a [National Register of Citizens](#) to be rolled out across the country. If this occurs, those unable to prove their citizenship with the right documents could be rendered stateless and moved to detention centres.

CONTEMPORARY EDUCATION

Millions of people are denied their right to education because of poverty, marginalization, poor and ill-funded services, geographic isolation and conflicts. Indigenous peoples are particularly affected and, throughout the world, they suffer from lower levels of education than their non-indigenous counterparts. Indigenous students have lower enrolment rates, higher drop out rates and poorer educational outcomes than non indigenous people in the same countries

CONCLUSION

Tribal people have an important role in the sustainable development of biological resources and this has been basic to India’s stand in various international fora on issues relating to access and benefit-sharing to biological resources and traditional knowledge as well as tribal rights

The World Conference on Human Rights, through the Vienna Declaration and Programme of Action, affirmed that

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing ,and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.



Baiga and Gond banned from India's Kanha Tiger Reserve, their home for countless generations.

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