WHAT HAS DRIVEN THE TRIBALS OF CENTRAL INDIA TO POLITICAL EXTREMISM? *

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According to the Ministry of Home Affairs, Government of India, 125 districts spread over nine states in Central India and adjoining areas have come under the influence of Left radical groups, loosely called Naxalites. On June 22, 2009, the Government of India has declared the most important among the Naxalite groups, the Communist Party of India (Maoist), as a terrorist organization, and banned it.

The precursors of the present phase of Naxal activities first surfaced in Naxalbari of North Bengal; Gopiballabhpur and Nayagram Police Station areas close to the meeting points of West Bengal and Jharkhand; Srikakulam in Andhra Pradesh; Malkangiri in Orissa; the adjoining areas of Bastar in Chhattisgarh and Gadchiroli in Maharashtra mainly among the tribal people. Currently, though many areas and peoples in North India outside the predominantly tribal region have come under Naxal influence, it seems from the report of the Expert Group constituted by the Planning Commission to examine the development challenges in extremist affected areas that the epicentre of the upsurge "is the region in Central India with concentration of tribal population, hilly topography and undulating terrain". This may not be fortuitous.

On August 18, 2009, addressing a meeting of the Chief Ministers, the Home Minister of the Government of India, P. Chidambaram, stated that the Maoist challenge would be met by development activities and police action. This was an utterly unrealistic approach; he was silent about the most important issue, namely, the systematic dispossession of the tribal people from land resources, which they have been holding for generations.

Here it would be noted that the dispossession I am referring to is very much different from development related displacement. Conceptually at least, project related displacement is not dispossession. Displacement is the unwanted outcome of a particular type of development, and the government accepts the right of the displaced persons to be compensated. It is a different matter that compensation may not be adequate, or only notional.

As against involuntary displacement, in many predominantly tribal areas the tribal people are deliberately dispossessed of their lands and resources thereon in a meticulously planned manner. This is a serious charge; but this is true. I shall now give the relevant information in support of what I have stated.

In November 1985, the Planning Commission had set up a Study Group on Land Holding Systems in Tribal Areas with myself as the Chairman and Dr. Bhupinder Singh (at that time Adviser, Planning Commission with the rank of an Additional Secretary, Government of India) as Member-Secretary. The other members included one retired High Court Judge, one retired Chief Secretary (who also had served as the Adviser to the Governor during President's Rule in Nagaland), one former member of the Union Public Service Commission, the Agricultural Commissioner of the Government of Bihar, one Professor of History, Economics and Sociology each. I am a retired Professor of Anthropology.

We made a field study in Orissa and found that during the land survey and settlement operation carried out in the late 1950s and continuing in the 1980s, in some areas of Koraput district, hardly one per cent land in actual possession of the tribal communities was recorded in their favour. The Study Group could not visit other states because of the inability of the Planning Commission to provide logistic support.

In fulfilment of an assurance in respect of a Lok Sabha USQ No. 678 dated April 15, 1987, a statement was tabled in Parliament vide Planning Commission QM No. Pc/Bc/16—(67)/87 dated 1988. It *inter alia* mentioned:

As regards cadastral survey and settlement operations above 10 degree slope which have been declared forest, there may be some difficulty in carrying out these operations because this may come in conflict with the provisions of the Forest (Conservation) Act, 1980. Even in cases where the provisions of the Forest Act are not attracted, the State Government of Orissa seems to have avoided such a survey in order to prevent alienation of fragile hill-slopes.

During our visit to Orissa, apart from interacting with the tribal people in their habitats, we had held discussions with leading citizens, the concerned Minister, Commissioner-cum-Revenue Secretary, Member - Board of Revenue, Land Reforms Commissioner, former Survey and Settlement Officer, Koraput district, District Collector, Keonjhar, and other officials. Nobody mentioned that cadastral survey could not take place on a slope beyond 10 per cent because most of these were declared forests. Perhaps some of these areas were declared village forests under the Village Forest Act, 1972 after the survey-and-settlement started in the late 1950s. The time when some of the areas beyond 10 per cent slope might have been declared village forest should be checked.

However, the Planning Commission's statement submitted to Parliament admits that even in those areas beyond 10 per cent slope that did not attract the provision of the Forest (Conservation) Act, the rights of the tribal people were not recorded as "the Government of Orissa seems to have avoided even a survey in order to prevent alienation of fragile hill slopes". Here it should be noted that the statement of the Planning Commission is incomplete. On behalf of the Government of Orissa, the Deputy Director, Land Records and Survey had submitted a note in which it had been mentioned that the land beyond 10 per cent slope was entered in 'Government Khata'. The note has been attached to the report of the Study Group as Annexure V. Perhaps, the officer of the Planning Commission who drafted the statement failed to take cognizance of the note submitted by the Government of Orissa. Otherwise, the statement submitted to Parliament would have clearly mentioned that the areas beyond 10 per cent slope were recorded as state land in a single entry.

Details of why lands beyond 10 per cent slope, which were under actual possession of the tribal people, were not recorded in their favour have been furnished in the annual report of the Commissioner of Scheduled Castes and Scheduled Tribes for the year 1960-61. During its visit to Orissa in 1986, the Study Group found that the position had remained

unchanged even after the lapse of a quarter of a century, and no remedial measure had been taken even though the Commissioner's report was presented to Parliament.

The report of the Study Group had included extracts from the report of the Commissioner of Scheduled Castes and Tribes at para 8.4. The relevant portion from the same is reproduced here.

During the Second Plan period, an amount of Rs. 6.93 lakhs was provided for implementation of the Jhum control scheme on Assam pattern and an amount of Rs. 30.00 lakhs was provided for implementation of rehabilitation and soil conservation schemes. The Soil Conservation Department of the State has mainly concentrated on two types of activities, viz., (1) contour bunding below 10 per cent slope, and (2) plantation above 10 per cent. Figures published by the Soil Conservation Organisation show that 6,574 acres were bunded and 28,103 acres of land were terraced. Three new watershed management units were also started during the year under the report, bringing the total number of units to eleven. These units covered a total area of 6.8 lakh acres.

As a result of perfunctory entry in the record-of-rights, in one village of Bissamcuttack Block while out of 936.13 acres of land only 2.50 acres below 10 per cent slope was recorded in favour of the 44 households of Dongria Kondh (a community listed as primitive tribe in the State), around two thousand mango trees located above one to ten gradient slope which were owned by the Wadaka lineage, were recorded in favour of the State Government. The value of these trees was estimated to be around Rs. 40 lakhs.

In Bondo Hills, less than one per cent land owned by the tribals belonging to the Bondo tribe who are also categorised as primitive, were recorded in their favour. In a recent communication Prof. L.K. Mahapatra, a former Vice-Chancellor of Utkal University, informed me that in the Upper Bondo Hill only around 0.25 per cent land owned by the Bondo people was recorded in their favour.

In Keonjhar district, the data supplied by the Survey and Settlement Officer in respect of another officially listed primitive tribe, the Juang, show that 2.48 per cent to 23.50 per cent land owned by them in different villages were recorded in their favour.

Massive dispossession of the tribal people from their life support resource base had taken place because of the government policy of treating tribal possessions beyond 10 per cent slope in the hills since time immemorial, as encroachment.

It should not cause any surprise that today some of these areas are hotbeds of political extremism.

As regards the effect of these measures and attitude of the tribals, the Commissioner reported as follows:

"No attempt has been made to obtain the consent of the population concerned for undertaking the scheme and for ensuring their active participation. There has not also

been any follow-up programme and maintenance of the contour bunds has posed a difficult problem."

Thus, what the Commissioner revealed was that land structure and land use of about eight lakh acres of land under occupation of the tribal people were changed without obtaining their consent. But the Commissioner did not end here. What he further revealed was unthinkable in any democratic polity. As mentioned by the Commissioner –

"At present an attempt is being made to obtain the consent from the families concerned to the effect that these will be maintained and repaired by the Government and the cost will be realised from the families concerned."

As maintenance is a continuous affair, the people were required to pay all through their life, for what the functionaries of the state had imposed on them without obtaining their consent. But the story does not end there. There were more shocking things to come. As the human drama unfolds in the Commissioner's report:

"There are several other clauses in the bond. Some of the more important ones are (i) the assessment on land where contour bunding work has been executed shall not be reduced merely on the ground that the unprofitable area has increased as a result of any work; (ii) the "beneficiary" shall give up cultivation above 10 per cent slope; (iii) the beneficiary agrees that in view of the benefit accrued and accruing to him because of contour bunding, he shall transfer a portion of his land as may be decided by the Collector to the government free of consideration for giving the same to other persons who may be losing cultivation above 10 per cent slope."

While the Commissioner's report gives the key to the mystery of non-recording the land rights of the tribal people beyond 10 per cent slope, they were expected to part with such quantum of land as the Collector might decide, because of the so-called benefit accrued to them through the action of the minions of the state, without their consent.

Naturally, as reported by the Commissioner, "the people concerned did not agree to sign the bond and the revenue personnel have now been entrusted with the task of getting the bonds signed by tribals concerned."

While the mix of cynicism and environmental fundamentalism in the actions of the Orissa Government, as revealed by the Commissioner of Scheduled Castes and Scheduled Tribes as early as in 1960-61, and the continuation of which was confirmed by the Study Group on Land Holding Systems in Tribal Areas in 1986, is unfortunate, the presentation of a sanitized version of the same in the statement submitted on behalf of the Planning Commission in Parliament would certainly cause doubt about the nature of India's democracy.

I visited Sundargarh district in 1991 at the invitation of an NGO. I learnt that the tribal people had successfully resisted the coercive measures unleashed by the state to sign a bond to relinquish their right in full on lands located above 10 per cent slope, and in part

below 10 per cent slope. I was also told that their right above 10 per cent slope was not recorded as a confiscatory action on the part of the state. This is a serious charge, but as it targets the subjective attitude of the policy-makers, I would like to keep my judgment in suspense till I get more clinching evidence.

In 1989, I paid a short visit to Orissa as the Chairman of the Sub-Committee on Indigenous Systems of Conservation in the Tribal and Hill Areas, set up by the Committee on National Strategy of Conservation, Ministry of Environment and Forest. The Committee and Sub-Committee were set up as preparatory to the Earth Summit held in Rio in 1992. On this occasion, I enquired about the functioning of the Watershed Management Units and contour bunds. I was told that in many areas the tribal people had damaged the contour bunds, as these had been constructed without taking care about the flow of water. I could sense that tension was mounting up.

The Secretary of the Harijan and Tribal Welfare Department gave me some interesting information. The Government of Orissa had approached the International Fund for Agricultural Development (IFAD) for assistance to take remedial measures against drought in the Kalahandi district where it had become endemic for years. At the insistence of the IFAD, the Orissa Government had agreed to allow cultivation up to 30 per cent slope. It was good news and bad news. It was good news - in that the right of the tribal people was at least partially restored; it was bad news - as the government, which ignored the report of the Commissioner of Scheduled Castes and Scheduled Tribes and the report of a Study Group of which a retired judge of the High Court was a member, yielded readily to the pressure of an international funding agency. However, later I learnt that the government agreed to make relaxation only in the Kalahandi district, where the funds provided by the IFAD were used.

Official sources have tried to justify the government approach by telling me that the real intention of the government in de-recognising the rights of the tribal people beyond 10 per cent slope was to discourage shifting cultivation. I enquired whether there were any scientific data in Orissa on the extent of soil erosion caused by shifting cultivation. I was told that no scientific data had been collected in Orissa. It is unfortunate that without scientific data non-stop campaigns against shifting cultivation had been carried on and are being carried on in the name of scientific land use. This is like a modern-day witch-hunt.

The ICAR Regional Research Complex in Shillong collects data from time to time by fixing a measurement gauge in the experimental field at a place called Barpani near Shillong. The data show that depending on the degree of slope of all farming technologies, next to bamboo shifting cultivation, if carried on below 40 per cent slope, has the lowest soil erosion. But if carried out on 60 to 70 per cent slope, it has the highest soil erosion. Unfortunately, to persuade the people to give up shifting cultivation, the National Committee on Development of Backward Areas in the report on the North-Eastern Region has published data on soil erosion in case of shifting cultivation carried out on 60 degree to 70 degree slope only. And for comparison, it has included corresponding data in respect of the natural bamboo forest.

At a seminar held in the North-Eastern Hill University, the tribal students accused a member of the National Committee, who was attending the seminar, of presenting the data in a perfunctory manner. They pointed out that less than one per cent of the farmers could have practised shifting cultivation on 60 degree to 70 degree slope. Shifting cultivation was normally carried out on lands below 45 degree slope. They asked why data relating to normal practice in shifting cultivation were not given. They pointed out another bias in the report. While in most tribal areas individual ownership of land is subsumed within community rights, the report under reference suggested that district and village councils should be persuaded to adopt a "progressive policy" of individualisation of their lands. This, they alleged, was interference with their system and that this would accelerate alienation of their land. In protest, they would not allow the gentleman to speak. I was present at the meeting. With great difficulty the students could be persuaded to allow the gentleman to speak. I mention this incident to highlight the point that while bias against shifting cultivation per se is contributing to the alienation of tribal land, this in its turn is alienating the administration from the tribal people. In fact, the report of the Commissioner for Scheduled Castes and Scheduled Tribes, already referred to, has given an example of the same. It is reproduced here:

Cashew nut plantation has been taken up by the Soil Conservation Organisation of the Orissa State Government on hillocks, some of which were used by the tribals for grazing their cattle or collecting dry shrubs for use as fuel. Some of the tribals even used to cultivate some of these highlands and had title deeds and paid rents for the lands utilised by them; but the Soil Conservation Department did not give them any share of the amount realised by the sale of cashew nut plant on eight hillocks.

During the visit of the Study Group, this matter was further examined. We were told that in great frustration the tribal people had burnt cashew nut land on one hillock in the early 1960s. Prof. Mahapatra, the former Vice-Chancellor of Utkal University, provided us more information. In Koraput district, cashew nut plantation had been carried out on around one thousand acres of hill slope lands, out of which only 56 acres were passed on to the tribal people. He was not aware of any justification given by the government for appropriating more than 900 acres of land, which were under possession of the tribal people from time aeon. After it became clear that the government had no intention of giving them just share of the plants grown on their land, the tribal people uprooted the cashew nut plants on one hillock. Even then, the government action of dispossessing the tribal people of their land by carrying on cashew nut plantation on hill slopes under the shifting cultivation control scheme was extended to other areas also; but the tribal people did not acquiesce passively. In 1984, they uprooted cashew nut plants on 95 acres of land at Jiljira at Kashipur Block. During a subsequent visit to Koraput district in mid-1990s, I enquired from a senior official of the Orissa Government about the Kashipur episode. He confirmed the correctness of the information given by Prof. Mahapatra and added that in addition to uprooting cashew nut plants, the tribal people had also burnt some plants. I was told by a social activist that most of the cashew nut plants grown over tribal land had been handed over to a corporate body, and that the tribal people were extremely sore about it. I, however, could not verify this information.

Already mention has been made of the concern of the tribal students of the North-Eastern Hill University, Shillong about their community land. In Orissa, we found that not only the tribal people, but even some conscientious social activists and government officers were deeply concerned about it.

It was Gopinath Mohanty, the great humanist of Orissa, who pointed out that Kondh villages were sacred space to them. They occupied the villages after getting divine omens. The tribals considered that not only did they own the village, but also the village owned them.

This is a very significant observation. In this perspective, the attempt made in some quarters to equate the World Bank-sponsored entity "common property resource", community land and resources is denial of tribal heritage.

In my keynote address at a seminar on "Communal Land System", organised by the Indian Social Institute on August 28-29, 2002, I had spelt out the differences between the communal land holding system and common property resources system as follows:

1. ***Communal Land Holding System (CLHS) versus Common Property Resources System (CPR)***

   A. Modality of delineation of territorial jurisdiction:

      CLHS: Belief in supernatural bestowal or sanctification by long historical association with or without concurrence of any centre of power including State CPR—assigned/endorsed by the state or ancillary centre of power.

   B. Sustenance of relationship with delineated territory:

      CLHS: Conviviality orientation encompassing animate and non-animate phenomenal world.

      CPR: Power orientation underpinned by the ego-centric need satisfaction as in village commons in rural India.

   C. (a) Nature of right of community in CLHS:

      CLHS: (i) Jurisdictional right as well as undifferentiated economic right of the community as a whole. Individuals have the right to a fair share but not the right to a specific area or plot within the jurisdictional right of the community.

      (ii) Within jurisdictional rights of the community economic rights of clans or lineage and of functionaries serving different needs of the community or enjoying special prerogatives derived from some events supposed to have taken place in the past.

(iii) Jurisdictional right of the community exercised by special functionaries belonging to particular clans or lineage in mundane aspects together or separately and individual rights of different types being conferred/recognised by the special functionaries as in modified *Khuntkatti* system of the Mundas, and Bhuihari system of the Oraons.

(iv) Jurisdictional right of the community exercised by special functionaries belonging to a particular lineage who secures assistance of different lineage or clan elders and balances power equation among them according to his own prudence and assigns fair share to the members of the community with the assistance of the lineage or clan elders (Kuki-Mizo system).

(v) Access right of specific community to specific resource for sustaining a specific livelihood pattern within the territorial jurisdictional right of a larger community with primarily a different livelihood pattern (Birhor's right to siyari plant for rope making within the territorial jurisdiction of the Santal, Kheria and other tribes).

(vi) Access right of different communities to the same territory in different hours of the day.

(a) Fishing right of the Keot in early morning and of the Kandra during other hours of the day in shallow water near the coast of Chilka Lake.

(b) Nature of right of community in CPR

Usufruct right according to rule framed by the authority/recognising the right.

2. *Change in case of Non-traditional Use of Traditional Right*

The Rongmei Naga people of Manipur have the traditional right of barter by individuals of the forest produce grown in nature in their respective shifting cultivation (Jhum) fields during the inter-Jhum period. When some of the Rongmei villages were connected by national highways, some people in a village started to extract large quantity of forest produce and transport the same by trucks. This was a non-traditional use of resources. If large numbers of individuals transport forest products in this manner, there will be ecological degradation. The village council decided not to allow the individuals to make this non-traditional use of traditional resources. Instead, it decided that truckloads of forest products from inter-Jhum fields would be marketed in a planned manner to ensure that environmental degradation did not take place. Further, the council decided that the money thus earned would be used to appoint an additional teacher in the local school. Thus, it endorsed the view that a living traditional system itself has within its ambit the provision for change.

3. *Viability of Communal Land System*

A recent report from Panama indicates a trend of revival of the communal land system to provide a frame for collective resistance to encroachment as ancestral domain by unscrupulous operators who mercilessly exhaust the land resources leading to environmental degradation. Besides, with appropriate institutional arrangement, the communal land right has been found to provide collective security to productive investment.

With growing awareness, unbridled consumerism of the West has created a condition that unless massive environmental retrieval is brought about within a short time, continuation of life on planet earth by the end of the century may become problematic; the whole of humanity is tending to become a moral community at the global level. At the same time, there is a parallel development. Of late, scientific resources' appraisal at the surface and sub-surface levels has generated a realisation that there is a concentration of major resources of the earth in the ancestral domains and current habitats of the tribal and analogous peoples (known as indigenous peoples in the United Nations parlance). Though defined in a manner which is not wholly satisfactory, global networking of the indigenous peoples has already taken place. With the creation of a Permanent Forum under the aegis of the United Nations, the indigenous existence as a part of an emerging global connectivity is becoming politically and legally surcharged, though currently on a low key. The significance of the presence of communal land and resource management systems of the tribal people is to be understood with a mix of ethical-cum-politico-juristic matrix as the backdrop.

In a general way, the Study Group on Land Holding System of the Tribals was sensitive to the foregoing emerging reality. Perhaps this has scared the policy-makers at the mid-level. It is a pity that we were not allowed to complete our task. In the report itself it was indicated that it was an exploratory one. The nation deserves a complete report.

Though our report was presented to Parliament in 1987, the then Commissioner of Scheduled Castes and Scheduled Tribes did not make any mention of it in his annual report. I personally handed over a copy of the report to him and drew his attention to the fact that to a large extent the core finding of our report was tied up with what one of his predecessors had reported a quarter century ago. I thought that he would like to inform the nation through his report that the serious malaise of the system that one of his predecessors had revealed a quarter century ago had remained to be redressed. Instead of referring to the concrete dereliction, which had become public knowledge, he published a political manifesto-type write-up of a hypothetical problematic about tribal command over resources. It was an act of magnificent evasion and this was not the first and last act of such evasion.

We were, however, impressed by the sense of commitment of the local officers in general in Orissa. The note submitted by the Collector of Keonjhar categorically mentioned that traditionally the Juangs and Bhuriyans residing in the respective *pirs* (village clusters) considered that the lands of the village belonged to the village community and they were free to use the same in any manner they liked. The *pirs* were not subjected to any land survey and settlement operation till the operation was taken up in the year 1970 and

completed recently. It was further mentioned in the note that shifting cultivation was indirectly recognised. The village headman had the power to distribute land for cultivation and to apportion the produce rent. Even then, in the survey and settlement operation the land subjected to shifting cultivation had not been recognised, although the practice was still in vogue.

It was brought to the notice of the Study Group that in many tribal areas legal recognition of possession of individual and *raiyati* holdings did not cover all possessions. In fact, the State Tribal Research Institute had already reported that among some tribes, individual rights were subsumed within community control, management and ownership. But no heed was paid to this. The survey and settlement rule was not adjusted to this contingency. It is obvious that as a sequel to non-recognition of communal rights, the embedded rights of the tribal individuals also failed to be recognised. The operation for preparation of record of rights turned out to be operation denial of tribal rights in respect of their land resources.

While formulating the recommendation, the Survey Group observed that where individual rights are embedded in communal rights, removal of the community as the intermediary, removes the necessary condition for the concerned individuals to enjoy their rights. The Study Group recommended that keeping the foregoing fact in view, the land reform policy and programme in the tribal areas should be subjected to most thorough re-examination.

The statement, placed in the Lok Sabha on behalf of the Planning Commission, mentioned that the Department of Rural Development agreed with our recommendation about the need for an intensive study of the communal land system, their persistence, change, decay and reinvigoration, with a view to identifying measures which might lead to the formulation of policy guidelines regarding the communal land system.

Two decades have lapsed since the commitment made to Parliament that intensive studies would be made based on which the land reforms policy focusing on communal land ownership, management and control among the tribal people, could be formulated. It is not known whether studies, as promised, have been done and whether any policy formulation in the near future is under consideration. In the meantime, two developments are taking place:

- First, there is more awareness about the importance of the communal land holding system among the tribal people.

- Second, in the absence of a clearly formulated policy, dispossession of the tribal people from their life support resource base is going on and there is reason to believe that this will further roll up in the future.

As regards the first, it is encouraging to note that the Expert Group on Prevention of Alienation of Tribal Land and its Restoration, set up by the Ministry of Rural Development, in its report (2004-06) has acknowledged that community ownership of

land continues to be the dominant mode in the tribal societies and takes precedence over that of individual ownership (p. iii). At page 157 of the report, it has been recommended that in addition to individual land rights, the rights of the communities are also identified and recorded. On page 158, the recommendation is that the entire land traditionally used for shifting cultivation on rotational basis shall be recorded in the name of the tribal community and individuals who cultivate particular patches of land on rotational basis, rather than being recorded in the name of the government or any agency.

As regards the second, I would like to present here the processes through which dispossession of the tribal people from the resources under their command are currently taking place.

Dispossession Through Neo-Feudalisation

The neo-feudalisation process was started by the colonial rulers. Faced with resistance against encroachment in tribal areas, in strategically located places they adopted a policy of co-opting local warlords as subsidiary allies by declaring them as owners of the lands under their political-military control. But due to underdevelopment of communication and administrative infrastructure, this policy could be implemented only in some areas. In other areas, these remained paper laws. In the post-independence period rather than re-negotiating on the paper laws, these were treated as the framework of administration. In those areas, the tribal people felt that they were being dispossessed of their rights in independent India.

The neo-feudalisation process is currently taking place in other forms also, frequently under the cover of the economic development programme. A case study relating to a Munda village in Khunti district of Jharkhand will highlight some aspects of the process.

Sutilong is a *Khuntkatti* village, which is in existence since the pre-colonial period. There are 84 households in the village (ST 40, SC 7, and OBC 37). While 488.46 acres of land are held by the 84 households, there are 129.06 acres of *gairmazurwa khas* land (non-revenue paying wasteland) and *gairmazurwa aam* land (state owned common land).

Mundas of Kamal lineage are considered to be the original settlers of the village. Currently, in Sutilong there are 15 Munda households belonging to Kamal lineage and as such, traditionally they are considered to be joint owners of all land of the village. The post of the headman is hereditary in a family. The households belonging to Kamal lineage individually do not make any payment to the government other than what the headman pays on behalf of the entire brotherhood. But the headman appropriates to himself the entire amount received from the non-*Khuntkattidar* households. While *gairmazurwa aam* is mostly used as grazing land and cannot be converted into *korkar* or land which can be leased out by the headman, *gairmazurwa khas* is exclusively at his disposal. He generally leases out portions of the *khas* land to non-tribals of a different village. When asked about the reason for doing like this, the headman and his lawyer explained that if a resident *raiyat*, particularly a tribal of the village, was allowed to carry on cultivation on any part of *gairmazurwa khas* land, he might later on claim occupancy

right on it. Traditionally, the headman did not enjoy this prerogative. The households other than those belonging to the *Khuntkatti* lineage were regarded as tenants of the entire *Khuntkatti* lineage.

Since 1977 the Revisional Land Survey and Settlement Operation is being carried on in this region. It has been suspended several times because of strong opposition from the people. One of the reasons centres on the issue of the nature of entry in the record-of-rights. In the previous survey operation the name of the Raja of Chhota Nagpur was entered in Khewat No. 1. As since then *zamindari* has been abolished, the Mundas demanded that instead of the Raja of Chhota Nagpur, the names *Khuntkattidars* should be entered in Khewat No. 1. But the government had decided that the 'Government of Bihar' should be entered in Khewat No. 1. As there was no agreement on this issue, the survey and settlement operation was suspended in some areas. However, the government could win over the headmen of some *Khuntkatti* villages by showing them separately from the other *Khuntkattidar* members, and conferring special prerogative on them. Sutilong was one such village the collaboration of whose headman could be obtained by conferring on him the special prerogative indicated. It was a development veering towards the neo-feudalisation process.

State-sponsored feudalisation came out very sharply in some parts of North-East India, particularly in the Kuki area of Manipur. During the colonial period, the Kuki-Mizo chiefs were projected almost as landlords. After independence, on the initiative of the Mizoram Autonomous District Council, the Chiefship Abolition Act was passed.

It is significant that at the time of abolition of chiefship in the early 1950s, in Mizoram the Autonomous District Council decided to pay compensation to the chiefs for the number of households under them and not for the quantum of land within their jurisdiction. The chiefs had control over the labour of the persons, not over land. For instance, when a person hunted a game, the chief had a share of it. Even if the animal ran away to the area in the jurisdiction of another chief and the hunter bagged it there, he gave to his own chief a part of the animal as his share.

In Manipur in Naga areas, the village council as a whole controls and manages the resources of the village; the headman does not enjoy any special prerogative. In Kuki area, the chief has the political right of management of community resources. He has the right to determine which plot of land to be allotted to which person for cultivation. But he has to exercise this right in consultation with the clan elders. Ordinarily, the Chief-in-Council cannot deny altogether the right to fair share of a resident member and cannot reduce the aggregate share of the members of the community. The Kuki chief is entitled to some payment from the members of the village community. This is considered as tribute for the responsibility he bears. Though in some quarters there is a tendency to project the payment as rent, on a holistic analysis, it becomes clear that it is not so.

The Manipur State Assembly enacted the Manipur Land Reform Act, 1960. It recognised only individual rights on land, not community right. Originally, it was confined to the valley, but in the early 1970s, the State Assembly decided to extend its operation in the

hills. The tribal people offered resistance. The Governor informally sought my view in this matter. I suggested that appropriate sections should be inserted in the Act covering the systems prevailing in the hills and with such modifications as may be agreed to. Accordingly, the Governor withheld his consent. But in the early 1980s, the new Governor gave his consent. The Directorate of Land Survey and Settlement issued a circular that land survey would be carried out with the cooperation of the chiefs. It was interpreted to mean that the chiefs would be paid compensation as owners of land, and with their collaboration, survey and settlement would take place. This attempt to take over tribal land by arbitrarily abrogating the collective right of the village community and by vesting feudal right on the chiefs, did not, however, meet with much success.

It is to be noted that till the 1980s though there were inter-tribal conflicts and organised violence, there were not much violent anti-India activities in the hills, except for Ukhrul district to some extent. It is only since the early 1980s that the anti-India insurgent activities have gained momentum in the West and South districts. Some ascribe it to the attempt on the part of the government to usurp the collectively owned resources of the people by promoting the neo-feudalisation process in the hills and thereby dispossessing the hill dwelling tribals from their traditional land rights.

Dispossession Through Primitivisation

Since the Fourth Five Year Plan, within the category Scheduled Tribe, a sub-category, 'primitive tribe', is recognised for being provided special assistance for coming up at the same level as the rest of the population. Certainly among the Scheduled Tribes, the people categorised as 'primitive tribes' constitute in general, the most disadvantaged and vulnerable segment of the population. But some of us opposed the use of the term 'primitive', primarily for three reasons: (a) The term 'primitive' is a pejorative term. Historically it means that they are having lower level of mental capacity. Researches have established the fact that the average intelligence quotient of different human groups does not differ much from one another. Their behaviour patterns differ from one another through adaptation to different ecological niche including human ecology and due to differences in historical experiences. (b) When some people are called 'primitive', the onus for not being able to take advantage of development inputs provided by the state and other agencies lies with them. (c) Categorising the people as 'primitive' provides rationale for intervention in the affairs of the people thus categorised by the politico-administrative establishment of the state. As early as 1784, the German philosopher, Herder observed that by stigmatising a people as 'primitive', invasion and conquest of lands across the oceans were legitimised.

Apart from the primary objection, we had a secondary objection. One of the main criteria for identification of primitive tribes is that they are in the pre-agricultural stage of the economy. We hold that some of them may be non-agricultural, but it need not necessarily mean that they are in the pre-agricultural stage. In the contemporary world, there is no economy which is not in direct or indirect symbiotic relation with agricultural economy. Besides, there is no consensus about what is agricultural economy. There are many people, particularly among the policy-makers, who do not consider shifting cultivation as

agriculture. They consider it as a rudimentary form of cultivation which has to be carried through to the level of agriculture "proper".

Currently, many of the so-called primitive tribal people are engaged in gathering forest products and trapping wild life for bartering the same with agricultural and village industrial products. Some of them process the forest products and dispose of them in local markets. Some of the goods collected by them have an international market. Pulses, oil seeds, spice and cotton grown by the shifting cultivators are on record to have had demand in the regional and national markets even in the 19th century. Harvey Feit [Politics and History of Band Societies, (ed.) Eleanor Peacock and Richard Lee, Oxford University Press, 1982] suggests that the societies of this category should be helped to specialise in their respective fields by providing them appropriate technologies, linkages and networking. But as the stereotype in respect of them is that they are pre-agricultural people, the action agenda for state intervention in respect of them is to transform them into agricultural people. The experience so far is that this has a disastrous effect.

One such so-called primitive tribe is the Toto in West Bengal. They live in only one village - Totopara, located at the meeting point of West Bengal and Bhutan. In 1951, their number was 319; currently it is more than 600. In the Survey and Settlement Report of 1907-14, the entire land of Totopara was recorded in the name of the headman "on behalf of the community". This was the only case in West Bengal of a community being recognised as owner of the entire village land. They were engaged in shifting cultivation, with barter in horticultural and forest products as subsidiary occupations. After independence, the welfare state decided to develop their economy as settled agriculture economy. To facilitate this, it was further decided to parcel out the community land into individual holdings. A survey and settlement operation was undertaken in 1958. The lands, which were under shifting cultivation of different households that year, were recorded in their favour. The Totos were told that in future they would have to practice settled agriculture on those very lands. As the Totos did not have plough and cattle for settled agriculture, and were not adept at adjusting the operations with the climatic conditions, they entered into share-cropping arrangement with Nepali farmers of the area. During this very period I visited Totopara in connection with my research and came to know of the development. I immediately got in touch with the Survey and Settlement Officer and impressed upon him the inappropriateness of parcelling out community land to individuals without the consent of the legal owner—the community. Besides, by doing this, the government's objective of transforming the shifting cultivators into settled agriculturists would not be served, as the lands would pass out of their hand. B. Raghavan, the Settlement Officer, was a sensible person. With the permission of the Secretary, Revenue Department, the operation was cancelled.

Two decades after the episode of 1958, when the Totos were officially declared as a primitive tribe, prodded by the Centre, the State Government decided to implement a big programme in Totopara. For 74 Toto families a Junior Secondary School, a Grameen Bank, a large Agricultural Multipurpose Co-operative Society, and a Maternity and Child Welfare Centre were sanctioned. The Totos were persuaded to spare land not only for the offices but also for the staff quarters of these institutions. But after settling down in

Totopara, the Grameen Bank threw a bombshell. They argued that, as without having separately delineated lands in their favour, the individual Toto households were not in a position to offer any collateral, it would not be possible for the Bank to advance any money to them for productive and other purposes. To meet the requirements of the Grameen Bank, the government took a quick decision to get a survey and settlement operation done. Because of their experience of 1958, this time the Totos were more cautious. They got only their homestead and adjoining kitchen garden land recorded in their favour. In this way, out of around 2,100 acres of land, only around 300 acres could be covered. The survey staff did not know what to do with the remaining 1,800 acres. The then Land Reforms Commissioner was approached for advice. As normally a community is not recognised as a legal person, he advised the remaining 1,800 acres to be provisionally recorded in a single entry as government land. On these lands, there were thousands of catechu trees, worth several million rupees. The district level revenue officers quickly got these auctioned and felled. The landscape of Totopara completely changed. The vacant lands, however, did not remain vacant. Large numbers of immigrant population were settled on them. The Totos became completely marginalised. Not only did they lose their land, but they also lost their homes. Mandarins of welfare decided that the stilt houses in which they were living for generations were not good for them; they were "persuaded" to change their house type. Though the homes with the social and cultural functions bequeathed to them by their ancestors had gone, mercifully they still had shelters where they could continue to "exist".

I have got a pathetic letter from the son of the last Toto chief describing the calamity that had befallen them. Even before I got this letter, I was informed of the catastrophe by a visiting anthropologist on phone, and I had taken up the cause of the Totos with the then Revenue Minister of West Bengal. He was a very sincere person. After due inquiry, he told me that while he shared my agony about the tragedy of Totopara, the thing had gone completely out of his hand. At that stage it was politically impossible for him to intervene. It was decided in the Advisory Committee of the State Tribal Research Institute that the Minister of Tribal Welfare, an MP who was an eminent economist, and myself would visit Totopara to ascertain what could be salvaged, but it never materialised due to bureaucratic intransigence.

Not only the Totos, but it appears to me that as a rule the so-called primitive tribes are destined to be victims of welfare.

In 2004, accompanied by activists of an NGO, the Orissa Development Action Forum (ODAF), I visited a hamlet of Birhors - a traditional hunting and gathering tribe of Orissa, West Bengal and Bihar. As a part of the Primitive Tribes Development Programme, a good number of them were removed from their forest abodes and made to stay in small hamlets on the outskirts of settled agricultural villages. I was surprised to see that all the houses in which they were sheltered, were ramshackle leaf structures. I have seen them living in similar hut-like structures in the forests of West Bengal, Bihar and Orissa. But while in the forest environment, they harmoniously fitted into the rhythm of life - the whisper of the silence and the muse of the cosmos. In the backdrop of the

mud houses of the farmers, they tell the story of distant approximation, with condescending accommodation of homeless shelters.

Some farmers in the main village were having houses constructed under the Indira Awaas Yojana (IAY) scheme. I asked a Birhor elder why they could not have at least a few houses under the IAY. Without batting an eyelid, the elder replied: "We cannot have it, because we are a primitive tribe." One of the officers accompanying me, however, explained that they could not have the benefit of the scheme from the local panchayat or the integrated Tribal Development Agency, as there was a separate Primitive Tribes Development Officer and specially earmarked fund for the primitive tribes. As the Special Officer's headquarters was located at a distance of around 30 km from the Birhor colony I visited, it was not possible for the Birhors to visit the Special Officer's headquarters too often. They, therefore, could hardly derive any benefit from being categorised as a primitive tribe.

Prof N.K. Behura of Utkal University, in a paper contributed to a seminar jointly organised by the Kolkata University and Indian Council of Social Science Research in 2004, has pointed out that though a good number of the tribal communities have been categorised as primitive tribes in Orissa and though a number of administrative establishments have been set up to take care of them, actually they have not derived commensurate benefit from being put in a special category. Further, he suggested that rather than being called a primitive tribe, they should be called vulnerable tribe.

The vulnerability of this category of people came out sharply in case of the Sauria Paharias who were settled on the Rajmahal Hill in the Santal Parganas by the British as early as 1778.

In 1990, along with several members of the Committee on Indigenous Systems of Environmental Management and accompanied by several officers of the undivided Bihar Government, I visited Dumka, the headquarters of the Santal Parganas district. We were told by the district officials that for protecting the environment and improving their quality of life, the Sauria Paharias, who had been categorised as a primitive tribe, were being brought down from their habitats on the hills and settled in a colony constructed for them on the outskirts of Dumka itself.

The background of the Sauria Paharias is as follows:

In the third quarter of the 18th century, in the wake of colonial expansion, large scale influx of migrants took place in the areas of traditional jurisdiction of the Sauria Paharias. They considered this as encroachment. They did not fight the British in the open, but from time to time swooped down on the highway located close to the foothills and then retreated deep inside the hills. This disrupted trade. The British ultimately adopted a practice of pacifying the Paharias by making periodical stipendiary payments to the chiefs and headmen. This was initially started by Captain Robert Brook in 1772 and was successfully implemented by Cleveland in 1780. The essence of this system, called

"indirect rule", was to co-opt the leaders of the community in a system of sharing power. Earlier, this system was tried in Africa also.

In 1782, the Rajmahal Hill Tract was withdrawn from the jurisdiction of ordinary courts and the hereditary leaders (called *sardars*) constituted a sessions court, which used to meet twice a year and try offences. Besides, the lands under the occupation of the Paharias were pooled together to constitute a government estate. Legally the Paharias were dispossessed; but it seems that they were not aware of it. The government allowed them to continue where they were, free of rent. In lieu of this concession made to them, the Saurias accepted the overlordship of the British.

It seems that in and around 1990, the Bihar Government decided to end the façade of Saurias occupation of land, which the British manipulated to be government land under law two centuries ago. Environmental protection and concern for the welfare of primitive tribes provided a good alibi for bidding farewell of the Saurias from what they knew to be their ancestral home.

Some officers of the Bihar Government, who accompanied us, told us informally, that Saurias were maintaining the environment at the hill-top quite well; the real purpose of the government was to get the hill slopes vacated, so that commercial forestry could be undertaken thereon. However, we could not visit the traditional Sauria habitat to check the correctness of the allegation.

We visited the colony established by the government. We were shocked to find that a barrack-like structure had been constructed to shelter people who had been living in spacious, though *kachcha*, houses for centuries. Then we found that the government could not reclaim the barren land in the proximity of Dumka, which was planned to be allotted to the Sauria Paharias, because of the opposition of the Santal villagers in whose jurisdiction the barren lands were located. In the alternative, the government had given them hand-pulled rickshaws for eking out their livelihood. No wonder they fled back to the hills. We were told that thrice they went back to the hills and thrice they were brought back to the colony. During our visit we found that many of the apartments were unoccupied.

Years afterwards, during a short visit to Dumka, I learnt that in the long run the government had succeeded to dislodge the bulk of the Saurias from the hill-top and cover their erstwhile habitat with commercial plantation. I could not personally verify it, but there is no reason to think that the information was not correct.

Primitive development planning of a modern state snatched away from the so-called primitive people their home and whatever had been given was a caricature of dignified living. Nothing had been given to them so that they could at least dream about the future. Under the canopy of unpunctured emptiness, they lost their capacity to dream.

By a time machine, as it were, they have been transported to the world of eternal nothing.

They have been primitivised.

Dispossession Through Fractured Humanitarianism

At the core of humanitarianism is compassion. It is a subjective attitude of mind. It can be admired; but it cannot guide action. Humanitarianism with vision of expansion of human freedom - freedom from hunger, from threat to living and life, from submission to indignity, from being forced to action or inaction and so on - is humanism. Humanitarianism is a fractured approach to reality; humanism is an odyssey for a holistic approach to reality. In humanitarianism there is the illusion of knowing the final word; in humanism there is no final word. Humanitarian action in closed orbit may strengthen human bondage and intensify human misery. This is what happened in a specific situation in Orissa.

In the Koraput district of Orissa, the *zamindar* of Jeypore had a category of hereditary functionaries called *mustajars*. Though they were revenue collectors, they had developed feudal pretensions. In the pre-independence period, they used to exact four days forced labour from all the households under their respective jurisdictions. Very rightly, the *mustajari* system was abolished after India attained her freedom. But along with the *mustajar* the corporate character of the village was also abolished. Earlier, through *mustajar* the households collectively used to make payment for the village land as a whole including the wasteland. After abolition of the *mustajari* system, the villagers were required to pay revenue only for the lands recognised by the state to belong to respective individual households. The wasteland in the new dispensation became state land. During one of my visits to the interior of Koraput district, the village elders told me:

"When *mustajari* was abolished we celebrated it. But when we came to know that along with the *mustajar* our access right to our life support resources had also gone, we wailed in our heart both for the *mustajar* and for our right. We feel cheated."

But there is another side of the story. There is one more entry in the deficit column of the national account book of humanism.

Dispossession Through Withholding Decision

In the hot summer of 1980, as the Chairman of the Forest and Tribal Committee, Government of India, I was in Chhota Nagpur. At about 11 pm, there was a mild knock on my door. When I opened it, I found about half-a-dozen senior officers of the Bihar Government of the ranks of Joint Secretary, Director and so on, belonging to the Munda community, standing before me. They told me that they had arrived all the way from Patna to meet me for half-an-hour and then they will go back to Patna the same night. They requested me to keep to myself their meeting me in this manner. Now all of them must have retired. I, therefore, feel free to narrate the incident. They asked me whether I knew that next day I was scheduled to distribute *pattas* for 36 acres of social forestry land to six leading persons of a village. When I confirmed that I knew about it, they made a request to me. They wanted me to ask the Forest Officers to show me the 300 acres of the

Khuntkatti forest within the jurisdiction of the village, which the Forest Department had taken under its management control in 1948 for protection and scientific development. I wanted them to tell me some more about it. But they submitted that as they were senior government officials, they should be excused from telling me more. Within ten minutes of their arrival, they left.

Next day, along with the Forest Commissioner-cum-Secretary and the Additional Chief Conservator of Forests, I reached the Forest Bungalow about 50 km away from Ranchi. As scheduled, I distributed the *pattas*. After that, while taking tea, I casually asked in the presence of the villagers about the 300 acres of scientifically managed Khuntkatti forest. There was an embarrassed silence. Then an ill-clad tribal elder stood up. He begged to be excused, as he did not know about scientific forestry. Then he showed me a barren land by the side of the Bungalow. It was having barbed wire fencing. He said:

"This barren land was a dense forest when the Forest Department had taken it over. Now through scientific management, the forest has become invisible. But the Forest Department is there."

When I asked him what he meant by what he said, he replied:

"If through breaches in barbed wire our goats stray into the barren land, they disappear. This is a clear proof of the presence of the Forest Department."

The Secretary of Forest was an IAS officer. It seems that he was not aware of all this. He asked the Additional Chief Conservator of Forests to explain what all this meant. The latter explained that on the eve of independence and immediately after independence, the *zamindars* and other private forest owners, under apprehension that in independent India forests would be completely nationalised, started cutting down trees on a large scale and then selling the same to timber merchants. To protect the forests, the Bihar Private Forest Act was passed in 1946. The Khuntkatti forest was also treated as a private forest. Under the 1948 Act, the Khuntkatti forest, along with other private forests, was taken over. For scientific management, the forest in this village was clear felled around 15 years ago. The felled trees were auctioned and sold out. The sale proceeds were deposited in the treasury. As no rules had been framed as to how to disburse the money to the owners of the forests, no disbursal could be made. Similarly, as no rules had been framed about how to invest money for afforestation of private land after clear felling, no afforestation was done and the erstwhile forestland was remaining barren all these years.

I wrote to the Chief Secretary narrating what I had learnt in the village. He did not send me any reply, but I understand that the Forest Secretary was transferred to another department and that the Forest Officers were unhappy for his inviting me to visit the area. Had I not visited the area, the embarrassing facts would not have become public.

In November 1980, Dr. K.S. Singh, who was for some time the Commissioner of South Bihar, published more details about the state takeover of the Khuntkatti forest.

Under the Bihar Private Forest Act, the management and control of Mundari, Khuntkatti forest vested in the Forest Department, but the *Khuntkattidars* remained legal owners and proprietors. In 253 villages, 53,000 acres of forests have been demarcated. An unknown quantum of the Khuntkatti forest still remained to be demarcated. The Mundas were to be paid 10 paise per acre as rent, but during the 30 years after the Khuntkatti forest was taken over, payment had been made only in seven cases. For many years no Forest Settlement Officer had been posted, and the Mundas also did not press their demand - of late, however, they were agitating on this issue. They were also angry that while clear felling of forests had been done in some areas, the owners had not been paid anything. Also, they were angry that some forest land had been used for non-forest purpose.

During a later visit to Ranchi, I enquired about the matter. I was told that feudal rights of the former *zamindars* and members of the erstwhile royal family had been raked up by vested interests to complicate the problem. I shall not be surprised if the bureaucratic-feudal nexus is still continuing to be able to deny the tribal people their rightful dues.

A senior Forest Officer, who himself belonged to a tribal community, confided to me that apart from the 53,000 acres of the Khuntkatti forest, there were several thousand more Khuntkatti forests, which the government could not take over due to lack of communication infrastructure. Later, those forests were also connected by good roads and the government made a bid to takeover the forests. But the Mundas offered stiff resistance. They themselves took up the management of the forests and these were managed much better than even the reserved forests. But even then the covetous eyes of the Forest Department were there. He, however, felt that if necessary, the people might go to the extreme, to prevent any further takeover of their forests. Since then, I have not heard anything about further development on this tricky issue. I presume that no news is good news.

Dispossession Not Through Amnesia

When formats for preparation of records-of-rights of Jharkhand and Orissa are compared, it is found that in Chhota Nagpur community rights are also recorded; in Orissa this is not done. It seems to be a deliberate omission. A comparison of the records-of-rights of all states will perhaps bring out many such cases, which are not the result of amnesia.

Dispossession Through State-Centric Command Law Sidetracking Living Law of Life

In 1960, the Judicial Commissioner of Manipur, who had the status of a High Court Judge, in his judgement on a civil writ petition filed by Luitang Khullakpa and others, decided that in the hills of the state the village communities were the ultimate owners of the land and land related resources [AIR 1961 Manipur 31 (V48C10)]. In making this judicial pronouncement, the Judicial Commissioner took the following facts into consideration.

In the absence of other records, the Judicial Commissioner had mainly depended on information available in T.C. Hodson's book, The Naga Tribes of Manipur, published in 1911. As described by Hodson:

(a) Each village possesses a well-defined area within which the villages possess paramount rights of hunting or fishing and of development of cultivation.

(b) In the case of villages which possess terraced fields, there is customary stipulation of equitable distribution of water throughout the terraces.

(c) While land is held in several ownerships, no alienation outside the clan is permitted.

(d) The Manipur State Hill Peoples (Administration) Regulation Act, 1947 indicates that each village has a Khullakpa or Chief and other officers like the Luklakpa, who collect from each household or family house tax at a fixed rate.

There is no system of assessment of lands in separate ownership and possession of lands among villages. But there is a provision in Sections 60 to 64 of the Regulation of 1947 for settlement of disputes regarding ownership of land or the right of cultivation of land, and also regarding village boundaries. This would show that while ownership of land and right to cultivation are recognised in the hill villages, the actual enjoyment of the same appears to be a matter of internal arrangement in the villages, and the government does not interfere.

After taking note of the facts on the ground, the Judicial Commissioner concluded:

"It is too late in the day for the Government to say that the villagers are in possession only during the pleasure of the Government. The Hill villagers have been dealing with the lands in their possession with heritable rights and with rights of alienation at least within their own clan and within their own villages."

"Such rights amount to property within the meaning of Article 31 of the Constitution."

Mandarins of the Manipur Government never concealed their unhappiness about this judgment. In Manipur, more than 90 per cent of the area constitutes the hills; only around nine per cent is the valley. On the other hand, three-fourths of the population lives in the valley. It is extremely difficult for any government to ignore the demographic imperative, but the hill people also cannot be expected to gift away their right based on the principle of *lex loci rei sitae*. Thus, the polity in Manipur has always been marked by an undercurrent of tension centering on this conflict of interests.

Frequently the political and administrative establishment in Manipur would take the stand that the judgment in the Luitang case related to the specific area of Luitang only, it did not cover the whole state. But except for attempts here and there by the administration, there is no general attempt to sidetrack the operation of the judgment by administrative action.

In 1995, the Government of Manipur set up a Social Policy Advisory Committee with myself as the Chairman, one former Chief Minister, three Cabinet Ministers, Chairman, Hill Area Committee of the Assembly with Cabinet rank, one former Cabinet Minister, two educationists and one former MP, as members. Along with other matters, we examined the issues of communal land system in the hills. We found that in some cases the concerned village communities had proportionately very large areas within their jurisdiction. We suggested that the state should not interfere with their ownership rights. But like the Maori incorporations of New Zealand, the state can regulate their resource use pattern and appropriation pattern. Out of the income generated through regulated use of the resources, income that can be accrued to a household through the extant Land Ceiling Act of the State can be equitously distributed among all the households of the village; the surplus income should be utilised to create institutions and facilities to which all citizens of Manipur, irrespective of whether hailing from the hills or from the valley, would have equal right of access. In the presence of the Chief Minister, the report was signed by all the members who represented both hills and plains, and all the major ethnic entities of the state. But later, on a very different issue, some differences had surfaced. As a result, this attempt to reform the communal land resource management system did not receive the attention it deserved.

I was hoping that after the other issue was resolved, this one will be taken up and a bridge of understanding will be built between the peoples of the hills and the plains. But then came the shattering blow from an unexpected quarter. While delivering the judgment on a case lodged by the people of a different hill village claiming compensation for appropriation of the community land by a public sector undertaking, the Supreme Court not only rejected the claim of that village, but also passed an order setting aside the judgment of the Judicial Commissioner four decades ago.

In a single stroke of the pen, the hill tribal people of Manipur have been legally disposed of thousands of kilometres of community land. It is a different matter that politically it may not be possible for the state or any agency to physically take possession of all those lands. But the judicial time-bomb for a future explosion has been laid.

This raises the question about the source of law. With exceptions, by and large the judiciary in India seems to be informed by the Austinian orientation of state-centric command law. Today, when the state is receding from many of its functions, such orientation is more likely to serve the interests of the corporate sector.

An all-out discourse should be launched relating to the relative significance of Austin's command law orientation, Duguit's social solidarity orientation, and Kelsen's living law orientation. If dispossession of millions is to be averted, judicial pronouncements must be required to make the underlying epistemic orientation clear.

Like any other fundamentalism, judicial fundamentalism also must be subjected to social x-ray, so that dispossession of the type mentioned above does not go unchallenged.

In the early part of this paper, I referred to the statement submitted to Parliament on behalf of the Planning Commission about the main thrusts of the report of the Study Group on 'Land Holding Systems of the Tribals' and the response of the State Government of Orissa. From the details of the Study Group's report and of the State Government's action I have presented in this paper, it would be obvious that the statement given on behalf of the Planning Commission was an incomplete version of what the report revealed and what the state did.

If one has to conclude what has led a large section of the tribal people to political extremism, obviously it cannot be ascribed to any particular cause in isolation. But apart from the executive and the monitoring organisation, roles of institutions like the Planning Commission and judiciary will also have to be examined and analysed in great depth.

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