

“Indigenous People and Forest Rights in Jharkhand”

Jagdeep Oraon

Assistant Professor & D.I.C

Dept. of Anthropology & Tribal Studies

Sidho Kanho Birsha University, Purulia

West Bengal, India- 723101

Oraonjagdeep@gmail.com

The 67.7 million people belonging to ‘Scheduled Tribe’ in India are generally considered to be ‘Adivasi’, literally meaning ‘Indigenous People’ or original inhabitants, though the term ‘Scheduled Tribe’ (ST) is not coterminous with the term ‘Adivasi’. Scheduled Tribe is an administrative term used for the purpose of ‘administering’ certain specific constitutional privileges, protection and benefits for specific section of peoples historically considered disadvantaged and ‘backward’. However, this administrative term does not exactly match all the peoples called ‘Adivasi’. Out of the 5653 distinct communities in India, 635 are considered to be ‘tribes’ or ‘Adivasis’. In comparison, one finds that estimated number of STs varies from 250 to 593.

It must, however, be stated that the Indian Constitution does not use the term ‘Adivasi’ and instead refers to the STs as ‘Anusuchit Jana Jati’. Traditionally ‘Jana’ was the more popular term to refer to the tribes in the Hindi heartland. (Ray: 1972)

One of the prime factors for claiming aboriginal or indigenous status for the tribes is to enable them to gain territorial, land rights and control over natural resources. There are, however, vicious forces in the country who are overtly active in not conceding these rights. The Hindutva forces term the tribes as ‘Vanvasi’. This term not only conveys a sense of primitiveness but also tries to deny the territorial rights. The Gandhians too were not very far from it and they considered the tribes more from a culturological position and referred to them as ‘Vanyajati’.

The Scheduled Tribe (ST) population of Jharkhand State is as per 2001 census 7,087,068 constituting 26.3 per cent of the total population (26,945,829) of the State. Among all States and UTs, Jharkhand holds 6th and 10th ranks terms of the ST population and the percentage share of the ST population to the total population of the State respectively. The growth of the ST population has been 17.3 per cent which is lower by 6 per cent if compared with the growth of the State’s total population (23.3 per cent) during 1991-2001. The state has a total of thirty two (32) Scheduled Tribes and all of them have been enumerated at 2001 census.

OBJECTIVES

- i) Explore the relationship between Indigenous people and forest.
- ii) Trace out the problems of Indigenous people as hindrances in implementation of F.R.A.
- iii) To know the problem for implementing the Forest Rights Act in these area.

METHODOLOGY

The hypotheses were taken as “under effect of the all around Indigenous people and forest rights. The indigenous people also grasp some array of progress in sake of their integrated development.” Two villages of Tribal and forest fringe area are selected for this study. The conventional anthropological methods are undertaken in field study like participant observation, interview, Schedule and photography.

Jharkhand



Source: Jharkhand Government Website at <http://www.jharkhand.nic.in>

DISCUSSION

Forest dwelling tribal or Indigenous people and forests are inseparable to us. One cannot survive without the other. The conservation of ecological resources by forest dwelling tribal communities have been referred to in ancient manuscripts and sculptures. The colonial rule somehow ignored this reality for greater economic gains and more probably for good reasons prevalent at that time. After independence, in our enthusiasm to protect natural resources, we continued with colonial legislation and adopted more

internationally accepted notions of conservation rather than learning from the country's rich traditions where conservation is embedded in the ethos of tribal life. The modern conservation approaches also advocate exclusion rather than integration. It is only recently that forest management regimes have in their policy processes realized that integration of tribal communities who depend primarily on the forest resource cannot but be integrated in their designed management processes. It underlies that forest have the best to survive if communities participate in its conservation and regeneration measures. Insecurity of tenure and fear of eviction from these lands where they have lived for generations are perhaps the biggest reasons why tribal communities feel emotionally as well as physically alienated from forests and forest lands.

Jharkhand state, the name itself suggests the presence of dense forest. Today, the estimated forest cover is 29 % of the total geographical area of the state, with many districts having more than 35 % area under forest cover. The existence of forests is strongly correlated with the presence of tribal communities, i.e. 26 % of the total population of the state. The region has a history of resistance to British colonial rule, dating back to the 1770s and continuing over the next 100 years. The Chotanagpur Tenancy Act (CNTA) and Santhal Pargana Tenancy Act (SPTA) provided some protection on land to the tribal people.

The post independence period saw many complex shifts in land rights and control. The Zamindari forests were first notified as Private Protected Forests in 1948 and then converted into Protected forests in the 1955-58. Mundari Khunt - Kattidar forests were inappropriately clubbed with Zamindari forests. The Mundari Khunt-kattidars have since then been protesting against the consequent loss of control over their forests, in violation of the CNTA and other regions have also seen many tussles between local communities. A more recent movement Jharkhand Jungle Bachao Andolan has focused on saving forests, land and livelihoods from major development projects.

The tribal people are fighting for their rights, livelihood and dignity. The Scheduled tribes and other Traditional forest Dwellers (Recognition of Forest Rights) Act, 2006, is one instrument in that struggle. This Act is crucial to the rights of millions of tribal and other forest dwellers in different parts of our country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivate land in forest land and community rights over common property resources. The notification of Rules for the implementation of the Forest Rights Act, 2006 on 1st January 2008, has finally paved the way to undo the “ historic injustice “done to the tribal and other forest dwellers. The Act is significant as it provides scope and historic opportunity of integrating conservation and livelihood rights of the people.

This Act is a potential tool for empowering and strengthening the local self governance system and to address the livelihood security of the people leading to poverty alleviation and conservation and management of the natural resources.

Prior to this landmark legislation there were a plethora of laws, court judgments, government guidelines and circulars, often contradictory to each other, which in the main, were an assault on the rights of tribals. During the British period a series of Indian Forest Acts were passed between 1876 and 1927. The Forest Act enacted in 1927 is India's fundamental forest legislation.

The Wild Life Protection Act 1972 also gave the government the right to arbitrarily decide on the areas and region required for wild life protection with no consultation with the gram sabhas or the people to be relocated.

In 1980 the Forest Conservation Act was passed which provided legal sanction to the arbitrary process being followed by the Forest Department of appropriating forest resources and lands from their customary and traditional inhabitants, thereby becoming the largest landlord in the country. Simultaneously, the traditional forest dwellers majority of whom are tribal's, became "encroachers" in their own homes.

To implement some of the National Policy, the Ministry of Environment And Forests issued 6 circulars on 18.9.1990 for settlements of claims. As per these circulars, the pre-1980 encroachments on forest lands were considered eligible for regularization. Certain eligibility criteria were set. Some of the circulars had pro-tribal provisions such as elimination of intermediaries and replacement of contractors by institutions such as tribal cooperatives, etc. protection of tribal's and non- engagement of outside labour in forestry activities: conversion of forest villages which were set up in remote and inaccessible forest areas into revenue villages. These circulars did not distinguish between different types of forest dwellers like scheduled Tribes and others nor was there any ceiling on size of holdings.

However, these circulars were never implemented. Only approximately 3 lakh hectares of the approximately 13 lakh hectares "encroached" was regularized. On May, 3, 2002 the Supreme court gave an order to evict post-1980 "encroachers". This was followed by government circular to immediately start eviction proceedings.

This was the context in which urgent policy and legal measures were required to protect tribal rights.

This Act most importantly recognizes that tribals and traditional forest dwellers are not responsible for the destruction of forests. The Preamble to the act states "Scheduled Tribes and Other Traditional Forest Dwellers...are integral to the very survival and sustainability of the forest ecosystem.

The Section 3 of the Act gives the details of all the 13 rights available to eligible beneficiaries of the Act. In addition, 4 (8) empowers displaced persons with the right to land for rehabilitation.

These 14 rights can be broadly grouped into four categories---

- (1) Individual / family rights
- (2) Community rights
- (3) Rights with protected areas including tiger projects and crucial wild life habitats.
- (4) Rights of displaced. Right available under the act are valid for all categories of forest land.

Jharkhand is an important state for Forest Rights Act (FRA) implementation, with large forest area and a very large tribal and non tribal forest dependent population. However, by 30th April 2010, the number of individual claims received in Jharkhand was only 30,000 and of these, only 6800 had been granted, which makes it less than one claim per forest dependent village. Moreover, very few claims for Community Forest Rights (CFR) have been received; those listed as CFR claims are mostly for diversion to non forest activities or minor claims for graveyards and threshing grounds. The main objective of giving community rights to forest resources has not been achieved .

Forests Villages :

The Britishers when appropriated the forests they brought the tribal people to the forests for cutting and clearance of the forests as the labourers. Those labourers , since then, remained in the forests. They settled there, and their settlement gradually turned into the villages, termed as Forests Villages. These villages remained in the forest under the Forest Department, These forest villages are not the revenue villages, and that was the reason that they do not have the land pattas. And for that reason they were never considered as the citizens by the different censuses. They were not included in the voter lists and not considered as the beneficiaries for the development programmes and for even Public distribution System. Moreover, they always , time to time got the eviction threats. By the Act the “ **forest villages** “ means, **the settlements which have been established inside the forests by the forest department of any state government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements by whatever name called for such villages and includes lands for cultivation and other uses, permitted the government.”**

There are 24 forest villages in the state. Out of 24 forest villages, 10 are located in Latehar district and 14 are situated in West Singhbhum district. All the forest villages were de-reserved in 1982. In 1987 the Revenue and Land Reforms Department Government of Bihar notified 7 forest villages in Latehar district and 14 forest villages in West Singhbhum district as revenue villages. The 3 forest villages located inside core

area of Palamau Tiger Reserve were not notified as revenue villages since these villages were to be relocated. The Ministry of Environment and Forests, Government of India observed in 1988 that the de-reservation of 24 forest villages violates the provisions of Forest Conservation Act, 1980. Again the Ministry of Environment & Forests, Government of India requested the state government to cancel the de-reservation notification and submit the proposal for diversion of forest land.

Singhbhum district has 14 Forest villages:

1. Tumbashaka
2. Rajabas
3. Rangamati
4. Huspi
5. Trilposi
6. Nawagaon
7. Bitkilsoya
8. Digha
9. Daliba, part of Santara
10. Tholkobad
11. Entinu
12. Karampada, part of KP.
13. Nawgaon.

The South Daltanganj Division and Latehar Division have 10 Forest villages:

1. Vijoypur
2. Pandra
3. Gopkhar
4. Henor
5. Chutwa
6. Kujrum
7. Latu
7. Meral
9. Ramaday and,
10. Kurum Kheta.

FRA Implement in Jharkhand :

Implementation of the act only began in Jharkhand in October 2008, due to the lack of elected panchayats in the state. The State government claimed that it was not able to implement the Act due to this, the Act requires elected members in the Sub Divisional and district Level Committees, while the Rules require the panchayats to summon a gram sabha. The Ministry of Tribal Affairs informed the Jharkhand government that the state government can, in consultation with the gram sabhas, appoint members to fill these positions. In Latehar, west Singhbhum and East Singhbhum districts, gram sabhas were called at the end of November 2008 and Forest Rights Committees elected, though in some areas the forest Department has tried to impose JFM Committee members as FRC members. As of October 2009, systematic distribution of claim forms had not yet taken place in most areas. Although District Collectors have received some funds for printing forms etc., even where the BDOs printed have not bothered to distribute them. There are reports of revenue field level officials demanding bribes for giving forms. The Forest Department has attempted to restrict recognition to pre-1980's claimants in some areas.

Though hundreds of settlements submitted resolutions seeking constitution of hamlet level gram sabhas, initially most gram sabhas have taken place at the revenue village level. In Latehar, the Collector has agreed to hold gram sabhas as per the provisions of the Panchayat Raj Act of Jharkhand. The process of recognizing hamlet level gram sabhas has begun in the district.

In early 2009, there were also intensifying efforts to remove people from their lands for plantation purposes. In Latehar district, in the second week of February, false cases were filed against people who resisted plantations and two people were arrested. Even in August 2009, cases were filed against people occupying forest land since ages and they were jailed. Many villagers have been evicted since 2005 in the name of undertaking plantations.

As of October 2009, the State Government had not issued any clear orders, and actual implementation was dependent on the District Collectors. In the absence of clear procedural guidelines being issued across the state, and the limited personnel available with the welfare department, implementation is largely being led by the district collectors. There seems to be wide variation in the approach being followed by different collectors. In some districts, the Collectors have delegated the task of getting FRCs elected to poorly trained BDOs. In some areas the BDOs have nominated FRC members on their own without calling gram sabha meetings while in other case, the Collector is insisting on seeing the signatures of 2/3rd members of the Gram Sabha on the voters' list before accepting the validity of the individual titles have been issued in the whole state to date. IN many cases the titles are for lesser area than that claimed but no reasons have been given for the same. The claims of other traditional forest dwellers are being ignored. There have reportedly been almost no claims for community forest rights. In one area, the Birhors claimed the right to collect NTFPs which has been granted over a 150 acre forest area. The Forest Department is refusing to accept claims in most wildlife sanctuaries, national parks and tiger reserves on the grounds that rights in reserve forests were recognized during the colonial period. However, some individual land titles have been issued in Hazaribagh wildlife sanctuary. No effort has been made to convert forest villages (there are 28 forest villages in the state) into revenue villages although individual titles have been issued in one. Bamboo and Tendu leaf continue being managed as nationalized MFPs by the forest department.

Table 1. Status of Implementation of FRA till 29 June 2010

FRCs formed	Claims received by FRCs	Claims verified by FRCs	Claims recommended by GS to SDLC	Claims recommended by SDLC to DLC	Claim approved by DLC	Claims rejected at various level
20,014	30,016(incl. ~500 community claims)	16,175	12,918	8,707	6,839³ (incl. ~60 community claims)	12,262

Source : Tribal welfare commissioner , Jharkhand

Table 2. Summary of FRA claims status in 3 districts

Districts	Total villages	FRCs formed	Claims received by FRCs	Claims recommended by GS to SDLC	Claims recommended by SDLC to DLC	Claims approved by DLC	Claims rejected at various level
Khunti	757	546	Not clear	160+3	Not clear	14+2	146+1
Bokaro			2,563	465	146 (2007 pending ?)	138	??
Dumka			3984			400	3584

Source : District Welfare Offices of the Respective districts

Table 3. FRA Implementation in three States up to May 2010

State	Claims			Distributed		
	Total	Individual	Community	Total	Individual	Community
Chhatisgarh	491374	487332	4042	214918	214668	250
Jharkhand	29551	29097	454	6079	6079	6022
Odisha	416051	423903	2148	239567	238912	655

CONCLUSIONS

The forgoing analysis of tribal forest rights in Jharkhand throws up a mixed picture with respect to the status of tribal and forest rights in Jharkhand. As far as the question of autonomy and recognition of the tribal identity is concerned, the creation of the State of Jharkhand is a positive step. The principle of tribal political autonomy has been accepted, and along with Constitutional provisions concerning socio-cultural rights, there is little formal threat to tribal rights. However, the exercise of these rights by the tribal/Indigenous population is another story. The issues of land, water, forests and local resources, which are central to the tribals for both, preserving their livelihood as well as socio-cultural identity, are under constant threat from various quarters.

The need to empower the Indigenous people economically and socially and make them self-reliant is keenly felt. It is heartening for indigenous people to be treated as equal partners along with others in the development process. Strengthening these Indigenous people's economic status, and thus, raising their status in the family and Community, is seen as an important component of empowerment. Enabling tribal's to gain access to resources will not only improve their status materially, but also bring about an increased self-esteem and self-confidence. The results clearly indicate that tribal empowerment increases, along with increase in tribal's income as well as increase in Tribal's total wealth, because these predictor factors have direct effect on Tribal empowerment. This cross-sectional study from the field indicates that cultural rather than economic factors play the greatest role in influencing the status of wives within their family. Also within the type of cultural contexts considered, economic improvement of a family does Policies on women's empowerment exist at the national, state, and local (Panchayat) levels in many sectors, including health, education, economic opportunities, gender-based violence, and political participation. However, there are significant gaps between policy advancements and actual practice at the community level.

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