

Re-envisioning Tribal Disentanglements by Tracing the Roots of Law and Technology: Substantial Transformations in place of Lip Service Interventions

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Abstract

Tribals, the people of the land, have undergone abrupt and meteoric changes in the underpinnings of epistemicide, ecocide and indigenocide. Industrial civilization is in the process of completing its destruction of technologically simple but indigenous tribal cultures. It is becoming apparent that in the disguise of modernization there is a drastic modification of these cultures, which is ironically considered imperative for civilization as well as beneficial for them in long term. In recent years we may detect a rekindling of scholarships on questions concerning the tribals, whose lives have been impacted by tremendous transformation in technology and legal system. A spurt of technological development in the last three decades has laid some foundational reshaping in the behavioural aspects of tribals. Their social construction in conformity with innovative technology like FinTech is attracting a new kind of attention. This paper objectifies how the ongoing legal and technological developments have impacted the lives and cultural ethos of the tribals. It seeks to find whether those changes have uplifted their life's vitality or have affected them adversely. The Constitution of India endows the tribals with special rights not to be violated by the state, but the question arises and the enquiry is how much that has been implemented positively since independence. This inquiry is perceived to fulfil holistically the need for systematizing law and technological advancement in reference to tribal's rights and to contextualise it. From time to time, the union, as well as the federal governments, have formulated various schemes to provide the tribal population with a decent standard of living so that they can develop

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along national lines. This study endeavours to diagnose whether those outlays have met the envisaged outcomes.

Key Words: Indigenous-Cultures, Epistemicide, Ecocide and Indigenocide, Technology and Transformation, Constitution of India.

I. Introduction

Technology is a commanding force in the world now. It dominates the entire sphere of our existence- content as well as the form. The journey has been from stone and bone tools to simple mechanical machines to hybrid models to ultra-modern automated robots. It is the linchpin of modernity. Technology is a 'mental process' to bring forth transformation not only in material but also in cerebral conditions of existence. Technology is a channel to achieve transformation. Advancement in technology is the product of the march of scientific knowledge.³ Technique, on the other hand, is the practical capacity to attain certain desired objectives.⁴ The 'technique-technology' shift is a key factor to modernity.⁵ Critics detects a self-serving conceptual circularity lurking beneath the alleged historical transition from a world dominated by technique to one dominated by technology.⁶

Do we have any option not to opt to technology? To present certain kinds of technological trajectories as 'natural' and 'inevitable' is a manifestation of political power that denies the possibility of choice.⁷ Technology is unavoidable. It is presented and viewed as an empowerment tool, as a solution to solve the complex problems facing mankind.

Can technology empower the tribal population? An affirmative answer is not without credibility given the historical role of technological advances in raising

³ PHILIPPS DESCOLA AND GISLI PALSSON, NATURE AND SOCIETY: ANTHROPOLOGICAL PERSPECTIVES 278 (1d, 1996 Routledge).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

global living standards and ostensibly increasing earth is carrying capacity.⁸ However, it is a two-edged sword involving trade-offs and unintended consequences.⁹ The increasing population (due to antibiotics), the excessive material consumption (market economy), the unprecedented food production, stocking and monoculture has been predominantly due to technological innovation. While technological innovation enhance comfort, people live longer and have high standard of living, there has been a profound change in the nature of the risk faced by humanity: shifting environmental burdens and risks from local to global, from immediate to delayed, and from risks principally to human health to risks to global life support systems¹⁰.

Tribals are living on the frontiers of climatic zones, being impacted most severely by the consequences of climate change, which is predominantly a by-product of the fruits of technological innovation. And now we talk about how technological innovation is empowering the tribals: an oxymoron! Tribals must take technology as a tool of empowerment with a pinch of salt. It should be a situation of once bitten, twice shy. The utility of technological innovation must be based on usefulness and autonomy, rather than constricting the minds and getting dominated by it.

Irrespective of the welfare-oriented institutions, technological promises to solve all the problems, there is an increasing destitution in the socio-economic-political life. Technology may not dissolve society completely but it is in fact dissolving sociability. It is transforming society into a sort of blind system of inescapable obligation and interdependence, a prison like condition of togetherness in which empathy is void and solidarity is forbidden.¹¹

The only way to utilize technology for tribal empowerment is to free it from solely profit based corporations and it's conjunction with the needs of society. We live in the age of power of few and the powerlessness of the rest. What is the

⁸ Helen Kopnina and Eleanor Shoreman-Ouimet, *Sustainability: Key Issues*, Ch. 2 *Reconstructing the Sustainability Narrative: Separating the Myth from Reality* by Peter N. Nemetz 47 (1d 2015, Routledge).

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Franco Bufo Berardi, *Futurability: The Age of Impotence and the Horizon of Possibility* 101 (1d 2017 Verso).

design of socio-economic-political power in the 21st century? Now it is technology that commands. We seem to have forgotten that the entire automation and technological progress has been from the developed world. *Are we innovators of technology or merely receivers of it?* Why this generosity by the western world? In a sense this automation of power is not, however, leading to the implementation of the imperial order, as was the dream of the western leading class after 1989.¹² Has this project of imperial domination gotten failed or changed the goalpost? The moot question is whether the same is being tried to dominate the tribal culture and thereby, controlling the natural resources. Empowerment of tribals through technology depends upon how much it has enhanced their Human Development Parameters, their health, education, ‘while having the bridle of their life in their own hands.’

Will technology solve the problems being faced by tribal population? When one problem is resolved, the solution itself leads to a new problem. Therefore, what is even more important than the solution is the continuous self-possessed capability to keep solving the problems because “problem solving only exists in the field of mathematics. In the human world, problems are not solvable as the process of healing is interminable. Problematic situations evolve, change the horizon, and finally disappear as new problematic situations emerge and take shape”¹³. This is what indigenous knowledge used to do, unlike today’s top-down technology transfer.

II. Methodology

This research is an inquiry carried through content analysis (doctrinal) of databases, monographs, primary and secondary sources of data, sociological and anthropological analysis of trends to ascertain a vision for the future and several scientific approaches to understand this complex issue. The method is analytical and non-descriptive. The entire focus and approach is to add multidisciplinary to the subject. The perspective is interdisciplinary in order to have a holistic and comprehensive view. As the method is analytical, the obvious aspects may be avoided to set the targeted theme.

¹² *Ibid.*

¹³ *Ibid* 103.

III. Laws: Transformative or Elusive

The constitution of India does not define the words ‘Scheduled Tribes’ (hereinafter ST).¹⁴ It is left to the President and the Parliament to identify an ethnic group. No rigorous procedure was followed in 1950, where the groups treated as tribes by the Govt. of India Act, 1935 were included as ST.¹⁵ Is there a continuity of the colonial policy of isolation of tribals even now? The ‘Scheduled Tribes’ are especially protected under the parent law, i.e., the Constitution of India and there are special legislations.

Could or did the state foresee, the socio-economic-cultural aftereffects of globalization? One divergent literature is that law may not only be irrelevant to development but in certain circumstances be downright harmful: (T)he formal neutrality of the legal system is not incompatible with the use of law as tool to further domination by elite groups.¹⁶

Law must be part of total culture.¹⁷ The notion of reciprocity:

Legalism supported capitalism by assisting in providing a stable and predictable atmosphere; capitalism encouraged legalism because they were aware of their own need for this type of governmental structure (Dror).¹⁸ More laws may mean less development due to red tapes, bureaucratic inertia, or conservative legal profession. People view lawyers as manipulators and fixers in India, professional liars in Ghana, and spouters of legalisms in Chile.¹⁹

Extreme competition in South Asian legal profession has negative consequences of excessive litigation.²⁰ Lawyers are not likely to be an active agent of social

¹⁴ A.M. SHAH, THE STRUCTURE OF INDIAN SOCIETY: THEN AND NOW (2d, 2019) Routledge New York.

¹⁵ *Ibid* 13.

¹⁶ Trubek and Galanter.

¹⁷ *Supra* n. 15.

¹⁸ Dror, Law and Social Change, 33.

¹⁹ Meagher and Smith, Law and The Development Practitioner (1974); The New Development: Can American Law and Legal Institutions Help Developing Countries? 1972.

²⁰ *Ibid*.

change.²¹ Over-legalisation at times harm than benefit in the process of development. Too many laws and legal processes may create rigidity in the already rigid bureaucratic system (ILC). Before commenting upon modernisation of law, how to conceptualise modernisation? The state relies on laws, more than even its implementation, the reason is not that law reform but that it wins perceptions. And at times perceptions are more valued than facts. Fuller challenges the premise of a vertical world order:

*I cannot escape the conclusion... that at least some of those who are content with nothing short of a world legal authority are influenced not by political and ideological realities but by an impulse toward conceptual neatness, by a conviction that nothing counts as law that does not fit our accustomed definitions...*²²

*I think Friedman makes a point when he asserts: Clarity and order may, of course be essential... but what is necessary is real order, not an order on paper. A paper code can conceal a state of anarchy, in which investment is stifled, the poor are oppressed... conversely: complex multifaceted laws, that offend the nostrils of jurisprudence, may cohere, may work. In either case, reality, not form, is what matters.*²³

Tribal lands were heaven for globally extractive corporations. As expected, several industrial plants were established in the tribal areas.²⁴ In order to address the emerging resentments in the tribal areas, several welfare measures, with two major steps were taken in the form of Panchayats Extension in Scheduled Areas Act, 1996 (hereinafter PESA) and Forests Right Act, 2006 (hereinafter FRA). The objective was to empower Village Panchayats and Gram Sabha to manage and own their resources and decide about their development. But the Act could

²¹ *Ibid.*

²² FULLER, THE MORALITY OF LAW 236 (1969).

²³ Friedman, On Legal Development, *Rutgers L. Rev.* 11, 59 (1969).

²⁴ M.C. BEHERA, REVISITING TRIBAL STUDIES: A GLIMPSE AFTER HUNDRED YEARS 184-185 (Rawat Publications, 2018).

not be mainstreamed.²⁵ It was equated with the meeting of Gram Panchayat.²⁶ The objective of PESA could not be understood by the people, the bureaucracy or the political executives. In so many cases of land acquisition, dubious methods, coercion, flagrant violence were used to obtain the consent of villagers.²⁷ The low participation rate in the Gram Sabha, the ongoing scuffle between Gram Panchayat and Gram Sabha leads to dysfunctional decision making. Similarly, FRA has been poorly implemented and sabotaged at all the stages of decision making, thereby defeating the very purpose of the Act, resulting into opposite outcomes in direct violation of the envisaged Act. This was envisaged by the Forest Rights Act of 2006, by giving power of decision making in Gram Sabha, which is being diluted by the Newly Amended Forest Rights Rules 2022. The documentary *Delayed Justice* (2009) was made to document the implementation of FRA, where it clearly manifests the Act being mired in red tape²⁸. Its implementation has bypassed the poor.²⁹

Does PESA fulfil these features or are there flaws in it? PESA uses the words, “notwithstanding the Constitution”. Does it lack flexibility? Is the framework easily understandable by the tribal themselves? The best laws are those that even a farmer can understand and that can be carried in a pocket.³⁰ The first flaw is the lack of simplicity, flexibility and accessibility of Tribal Laws. Whether this flaw is purposeful and deliberate is a moot question. Originally, The Forests Rights Act of 2006 was legislated with thirteen sets of rights, drafted by a collaboration of four departments of the Union Government: Department of Forest, Tribals, Panchayati Raj and Revenue. Gandhi’s Swaraj in the form of decentralization was at its peak when decision-making power was brought forth at village and sub-village level. The Tribal Advisory Council had a formative role to play. Role of the Governor. We are living in the age of digital information, what tribals need is digital empowerment: simple, accurate and unambiguous understanding about their constitutional and legal rights. Is Digital India assisting in this

²⁵ Ratnawali Sinha, *Governance in the Scheduled Areas: Expectations and Realities*. *Man in India*, Vol. 91(3-4): 4100-4104.

²⁶ *The Telegraph*, Guwahati ed, April 9, 2012.

²⁷ *Ibid.*

²⁸ S.K. DAS, *INDIA’S RIGHTS REVOLUTION: HAS IT WORKED FOR THE POOR?* 166-247 1d 2013 (Oxford University Press).

²⁹ *Ibid.*

³⁰ Napoleon

empowerment? The Government of India has launched a programme, GOAL (Going Online as Leaders) in collaboration with Facebook. First, they must go online and then to apply giving some documentation and evidences. It is farcical.

IV. Tribal Population at the Forefront of Climate Change Disaster

Majority of Tribal population live in the vicinity of mountains, rivers, forests and biodiversity with the abundant presence of clean and fresh air, pristine water resources, things netizens have scarcely enjoyed, yet malnutrition and diseases, like anaemia is rampant. Here, technology and awareness may assist predominantly. The physical infrastructure like rails and roads, schools and universities, will be utilized when population is disease resilient and healthy, which need to be prioritised. There might be some forests protected from exploitation, although it is highly doubtful whether there are enough fruits, vegetables as sources of food!

V. Globalization Led Development and Tribal Population

The world Bank elucidated the two opposing winds, which is not only transforming and changing but also challenging the developmental landscape of the world³¹.



The bottlenecks of top-down approach are inability in participation, and thereby, difficulty in agreeing globally. Another is lack of compliance. When International Environmental Agreements are perceived as inequitable at the

³¹ World Development Report, 1999-2000, World Bank.

domestic level, it may not be ratified.³² This civilization is fossil fuel based, resourced from the depths of geological time and the expanses of the geographical space. And paradoxically, it is tribals, rural poor, who needs to be displaced for fossil fuels. The paradox is while GDP grows, economy grows, the rural poor and tribals, who sacrificed everything grows poorer.³³ What the developmental approach has done since the colonial rule is that they converted once independent people into dependent and alms seeking people.³⁴ The argument is not against development but that it should take place on their own terms and conditions, in tuning with their own ethos and cultures. For example, the use of technological innovation in the form of big trawlers to increase profit in fishing activities or the corporates using ultra-modern technologies in handlooms, thereby replacing tribal fisher folks and artisans is counter-productive.

A cauldron is used in tribal and village households to continuously boil milk at a very slow dung-fuel, which changes the colour of milk to light-red. If that cauldron is considered as development, the fire beneath is the government (union as well as federal), corporations and other extractive players, who exploit the tribals in the name of development and empowerment.³⁵ In place of milk, what get stewed are the tribals and the rural poor.³⁶ The heat is always on the people and their resources and the cauldron of development melt them without any feeling³⁷. The word 'development' has become a cliché without being adequately understood. The paradox is the natural resources of tribal regions are exploited to fuel electricity and transport in the metros, whereas the exploited region and people are left orphaned. Paradoxically, economic growth needs tribal people to be displaced, making displacement an inseparable sibling of development, thereby making development, displacement, rehabilitation and resettlement as different shades of the same process called development.³⁸ Whether the state is

³² Carlo Carraro and Christian Edenhofer, *Climate and Trade Policy, Bottom-Up Approaches Towards Global Agreement 5* (Edward Elgar 2007).

³³ *Supra* n. 17.

³⁴ *Supra* n. 17.

³⁵ M.C. BEHERA, *REVISITING TRIBAL STUDIES: A GLIMPSE AFTER HUNDRED YEARS 192-202* (1d. 2018, Rawat Publications).

³⁶ *Ibid.*

³⁷ *Ibid* 192.

³⁸ *Ibid.*

eyeing on the resources of the tribals in the disguise of empowerment, where the poor are merely pawns in the gameplan of development?

Development, prior to the colonial rule was community centric and the common resources were under the dominion of people, and not the sovereign. Consequently, the focus of development was villages.³⁹ The concept of sovereignty is of imperial origin. The constitution of India confers '*public Trust Doctrine*.' It is to be noted that people were never evicted from their habitat in the name of development from either within or without, prior to the British in India.⁴⁰ The western imperialism diffused individualism leading to an end of community unity making it easier for them to impose their will. This has had consequences in the form of individual elites becoming beneficiaries while the communities or collectives becoming losers.⁴¹ Isn't the same being done by technology? Technology and laws have together torn apart the harmonization of knowledge, community living, resources and livelihoods, through different enactments and technologies pertaining to land, revenue, forests, minerals and water.⁴² Due to this piecemeal and cabined approach, the assault is on a comprehensive vision or perspective, that is, in fact, called the holistic development of people.

VI. Traps of Epistemicide

The world we live in is relying on and operating from a very small and selected base of knowledge because of the deliberate colonial project that committed epistemicide, to re-establish their own notion of knowledge. The simplest way to explain is how few colonial languages destroyed most of the world languages, and with it, the destruction of all indigenous, local, practical knowledge systems, which could be formidable in dealing with climate catastrophe. The colonial project was deeply involved in epistemicide, and now we have the catastrophic consequences in the age of climate change's stage of consequences. A knowledge system of several thousand years has been destroyed by a distorted knowledge system of two three centuries. Society is never static and so are its components, although the disappearing of indigenous knowledge and tradition under the

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

influence of '*cultural imperialism*' coined by Edward Said in his book *Orientalism* (1978) as 'the tendency to underwrite the communities through derogatory presentation of them by the colonial powers.' Is it possible to stop this epistemicide? Is it possible to revive and value the importance of epistemology for the tribal people?

I want to write about knowledge. Preserving and protecting indigenous knowledge means the revival of consciousness. The privatization of knowledge through IPRs and certain others is adversely affecting the activities of innovations. Karl Marx hints in his lesser-known book '*Grundrisse*'⁴³ that when invention becomes a business, it turns into profit-making, dominated by market forces.

“As long as scientific inventions and technological innovation are not free of the economic epistemic tangle- if techno-scientific workers are obliged to look for a salary and rely on corporation's support to develop their ideas, knowledge will never be autonomous. Preserving the autonomy of knowledge is one of the most pressing issues of our time. It is the only way to overcome the corporate devastation of the world and the global identitarian civil war.”

Through legal and policy frameworks, the customary rights and the laws of the communities over resources were annulled.⁴⁴ This approach did not consider the conventional wisdom practiced by the indigenous people as useful, leading to epistemicide. The colonialists before independence and our own govts thereafter, declared community resources as state or public property, making it easier to take away from them in the name of national development. This was an attack on the centuries old worthy relationship between nature, community, livelihoods and 'indigenous knowledge systems. This conceptualisation of developmental paradigms into the domain of governance has tragic and atrocious consequences on the poor and their resources.⁴⁵ Through these laws and policies, assisted by technology, the state has usurped the community's resources, which is being exploited by the capitalists for self-aggrandizement. It has another advantage for the capitalists, besides their resources, in the form of cheap labour, created out of

⁴³ Karl Marx, *Grundrisse* 635.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

eviction. In the name of Constitution, courts and governments, continue to justify acquisition of lands for public good.⁴⁶ The Supreme Court stated that “the power to acquire private property for public use is attributed to sovereignty and is essential to the existence of a govt. the power of eminent domain was recognized on the principle that the sovereign state can always acquire the property of a citizen for public good, without the owner’s consent”.⁴⁷ No wonder the law is blind and deaf.⁴⁸ So long as development exist, poverty exist.⁴⁹

VII. Traps of Ecocide

Ecocide is an extensive damage, destruction to or loss of ecosystems of a given territory.⁵⁰ It may be invader species infestation of an ecosystem, e.g., snail, which may ultimately relate to climate change. It may be anthropocentric, e.g., monoculture or deep sea-bed mining, among others. Why not to define them as a crime against humanity?⁵¹ The concept of ecocide emerged in the 1970s because of mass destruction to ecosystem, which was even under consideration for inclusion in the Rome Statute as a crime against humanity.⁵² Ecocide is rapidly and radically destroying planetary ecosystems without any possibility of reversal as how will we bring back already extinct flora and fauna species? Ecocide is the most barbaric form of commodification of nature and brutalities committed on the ecosystem. While being aware of its disastrous consequences, humanity has failed to stop it because the short-term interests of few prevails over the rest. The commodification, unsustainable and exploitative use of water for corporate’s short-term interest is an ecosystem crime. Although, in the long run, there are no winners, only losers. This is the power dynamic of the world. Are we in a condition to envision global substantial cooperation [emphasis supplied] to pursue socio-economic-political-climate justice and radically transforming our political economy, so that ecocide can be averted? Global

⁴⁶ Smitu Kothari, *Whose Nation: The Displaced as Victims of Development*, 1476-1485 *ECONOMIC AND POLITICAL WEEKLY*, 31 (24).

⁴⁷ 1994

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ MATTHEW HALL ET.AL., *GREENING CRIMINOLOGY IN THE 21ST CENTURY* 3 (1d 2007: Routledge).

⁵¹ *Ibid.*, cited at 11, Ch. Carbon Economies and Transnational Resistance to Ecocide, Rob White 11-24.

⁵² *Ibid.*

heating is especially assisting ecocide and is transforming the bio-physical world in ways that are radically and rapidly reshaping social and ecological futures⁵³. A key feature of ecocide is that it occurs in the context of foreknowledge and intent because there is well founded scientific evidence that unambiguously manifests- ecocide is unpreventable unless carbon emissions are reduced radically⁵⁴. Ecocide is an attempt to criminalize the catastrophic climate disaster in order to control it. If everyone agrees that carbon emissions are a major cause of ecocide, global heating and its consequences, then why not to stop it? The answer is not as simple as the question is. There are forces of consumerism⁵⁵, commodification, profit-making, gross inequities as using nature as business. This commodification has led to basic things like water becoming privileged. Ironically, market is now being seen as a solution to the climate change problem. Carbon Trading favours the polluter and the practice of polluting (Shiva, 2008). Unsustainable environmental practices incentivize further exploitation as the already existing resources dwindle due to overuse and abuse. There is a pattern of economic crises, which are considered as part and parcel of the capitalist system, but the post-crisis phase leads to systemic transformation towards more consumerism. Modern consumerism is based upon self-obsession and absorption with low horizons.

VIII. Observations and Concluding Remarks

The rampantly increasing gap between lived experiences of tribal population and the equality provisions of the constitution is a constitutional consternation. These provisions as hardware of liberal democracy have failed miserably in the absence of software part, involving public reason and attention to people's own efforts. The software part is mostly absent in the modern 'tribal project' of the constitution of India. Has the Tribal Project of the Constitution failed?

⁵³ *Supra* n. 12.

⁵⁴ *Ibid.*

⁵⁵ It is a process in which certain habits of consumption are generated by the pursuit of profit. The process involves the transformation of the production of goods and services according to the dictates of exchange rather than simply immediate use. It involves the incorporation of certain kinds of consumption, over time, into the unconscious routine of everyday life. Reproduction of the commodity of labour-power is increasingly achieved by means of capitalistically produced commodities and capitalistically organised and supplied services (Mandel, 1975: 391).

Originally, conceived as a temporary measure, the constitutional tribal project is senseless, no eyes to see, no ears to hear. Policy failures continue unabated, not because the subaltern cannot speak but because they cannot be heard.

The Governor is the pivot to administration of Scheduled Areas as per the Constitutional mandate. But the fence is eating the crop. It was to decentralise power but it has been fully centralised through the Governor. Most of the times, a Governor is posted in such states as a punishment posting⁵⁶. What was once a temporary measure has become permanent. Protests are deepening. Now, we do not recommend the state to decentralise power but people are the centre of power and have the inherent right to self-rule and they do not need to take it from the state.

In a case, a timber contractor won a case in the Supreme Court against Forest Department of Gujarat to cut about 7000 Mahua trees and succeeded in felling about 1600 trees, but villagers, who were dependent for subsistence from these trees by collecting flowers and fruits, appealed to Shri Harivallabh Parikh and his intervention saved not only 5400 trees but the livelihood of people. Although, the intervention of Supreme court has, at times stopped displacement, but the matter of tribal rights, of sustainability and protecting the nature is too serious to be left to merely the courts. This is quintessential to how people's power can be a force to reckon with. At times Courts behave as pawns of the state and corporations, at times the state even uses courts as a safety valve to silence protests, to pacify temporarily. Therefore, the redressal is to reclaiming the rights to have control over the resources and to self-rule.

In 'The Development of People (1904)', De Bois designed a model to answer the question: "But what is good and better and best in the measure of human advance? And how shall we compare the present with the past, nation with nation, and group with group, so as to gain real insight into conditions and needs, and enlightened guidance".⁵⁷ De Bios maintained that the question was extremely complex in matters of human development, because we are so ignorant of the ordinary facts relating to conditions of life, and because, above all, criteria

⁵⁶ As implicitly admitted by the present Governor of Meghalaya in an interview with Sourabh Shukla at NDTV

⁵⁷ *Ibid* 262.

of life and the objects of living are so diverse.”⁵⁸ He further insists: If we are to judge intelligently of the development of a people, we must allow ourselves neither to be dazzled by figures nor misled by inapt comparisons, but we must seek to know what human advancement historically considered has meant and what it means to-day, and from such criteria we may then judge the condition, development and needs of the group before us.”⁵⁹

What is the process of decision-making? Who is being allowed mining in those areas? Who is controlling the forests in those areas? Who ought to be managing the water resources in those area? Social construct. The approach must be to enable them the way they are and not to seek transplantation of our thinking into their minds. PESA was based on the bottom-up approach. But the local administration has totally failed to appreciate the Acts. The law mandates that it’s the Gram Sabha now that will decide how much money is to be lend and at how much interest rate? Unless the Money-Lenders Act is changed, unless The Minor Mineral Concession Rules are changed, unless the Forest laws are changed, Forests Rights Act will remain ineffective. The entire structure of law and policy implementation requires resetting. It is not that the tribal population needs to learn but the state and its institutions must de-learn their dealings with them.

“The difficulty lies, not in the new ideas, but in escaping from the old ones, which ramify, [...], into every corner of our minds.”

John Maynard Keynes, Preface to the General Theory.

After independence, the erstwhile British Raj got converted into the Government Raj or License Raj. There has been a colonial continuity in controlling tribal lands and their resources. Tribal people must reclaim their rights over their lands, their right to sustain their livelihood from forests. How the Govt is involving the Tribals in the decision-making? There is a gigantic divide between urban tribes and others. The decision making is predominantly by the urban tribes. Dominant

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

tribal elite control and manipulate the entire process of decision-making. It must be overhauled.

Promoting Tribal Art or culture is not sufficient to bring substantial transformations because it is a soft approach, desirable and needed but not sufficient. The hard approach is to effectively and efficiently enact laws in due and authentic consultation with tribals and then to implement them in consonance with the objective of the Act.

Supplying them material or asking them what to do is a regressive approach. Involve them as partners and not beneficiaries. Organic thinking not mechanical. Overturning the complete architecture of our thinking. Rather than overemphasizing on them to change, the Govt must restructure their approach.

The direct intervention through legislations like Bonded Labour System (Abolition) Act of 1976 and other programmes have little chances of success due to bureaucratic indifference and downright sabotage of efforts to put a stop to the social deprivation and subordination generated by this labour modality. This is due to hidden cheap labour policy and the need of a pliable labour force. The civil society's 'rescue and release' operations scarcely succeed as poverty drives them back into bonded labour market.

"History or tradition is the past of the present for the future."⁶⁰ History is one of the most significant components of a society, around which an individual and a community construct its identity.⁶¹ It acts as a guiding principle in turbulent times, in chaos and confusion⁶². It is a source of perennial knowledge and insights.⁶³ As Plato proclaimed that history is the highest form of knowledge.⁶⁴ The society without history is like an individual without memory and self-knowledge, cut adrift from everything.⁶⁵ Therefore, tribals must find their sense of history and structure themselves to fight the might of the corporate loot.

⁶⁰ *Ibid*

⁶¹ Tarun Mene and Sarit K. Chaudhary, Change and Continuity among Tribes 15 (1d, 2019) Indira Gandhi Rashtriya Manav Sangrahalaya Bhopal.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

Most of the displaced/project affected persons are from assetless rural poor classes, about 55.16% of them are tribal.⁶⁶ This paradox of development (as discussed above comprehensively) must be overcome.

Tourism in tribal areas has remained an untapped potential. Tourism for aesthetic value and also for health benefits, having the availability of medicinal plants, need expanded institutional and financial support. Why corporates or profit seeking extractive firms should open big hotels by destroying ecosystem? Tribal 'Home Stays', traditional food at their homes can be beneficial for both.

As per OXFAM Survey 2022, about 16 million people Livelihood refers to capabilities of the people and means of their living: availability of sufficient hygienic food, consistent income flow, availability and freedom to own and use both tangible and intangible assets.⁶⁷

The transformation of tribal economy into national economy has been from food gathering to food production.⁶⁸ Reservation of forests for commercial exploitation not only restrict but also erodes tribal customary rights.⁶⁹ Peasantization of tribes has been promoted as conscious official policy and as a result, many primitive tribes have taken to agriculture.⁷⁰

Technological and structural changes on a smaller scale are taking place in the mode of dry cultivation, which accounts for about 60% of the tribal population⁷¹. As and when the new dry land farming technology is developed and applied to settled agriculture, the pace of the transformation of the tribal agriculture will be quickened.⁷² Presently, much of the settled agriculture is at subsistence level and majority of the tribal produce are not marketable⁷³

⁶⁶ *Ibid* 27.

⁶⁷ S.N. Chaudhary, Tribes, Castes and Development 37 (Rawat Publications, 2018).

⁶⁸ KAMAL K. MISRA AND G. JAYAPRAKASAN, TRIBAL MOVEMENTS IN INDIA, VISIONS OF DR K.S. SINGH 128 (1d, 2012) Manohar.

⁶⁹ *Ibid*.

⁷⁰ *Ibid*.

⁷¹ *Ibid*.

⁷² *Ibid* 129.

⁷³ *Ibid*.

Cash cropping of coconut has turned the Nicobarese into an affluent community.⁷⁴ Such innovative practices may be emulated at other places in a likewise manner.

Even the most primitive systems of technology such as that of ‘Cholanaickans’ are now within the full network of market forces.⁷⁵ A class of tribal moneylenders has also emerged in North-East India and the middle India, the anti-land alienation has facilitated the rise of the insider ‘dikus’, who meet the need for credit hand-in-gloves with non-tribal counterparts.⁷⁶ These trends manifest why middle India is the most dynamic and vibrant epicentre of social and agrarian movements in the country.

Society is never static and so are its components, although the disappearing of indigenous knowledge and tradition under the influence of ‘cultural imperialism’ coined by Edward Said in his book *Orientalism* (1978) as ‘the tendency to underwrite the communities through derogatory presentation of them by the colonial powers.’⁷⁷ The Criminal Tribes Act, 1871, added stigma of criminality to these wandering communities, which were denotified after independence.⁷⁸ After their denotification in 1952, the ex-criminal tribes faded out of the Govt. records as they were not categorised uniformly under constitutional schedules like SC/ST and were sometimes left out of the special category altogether.⁷⁹ Along with their economic regeneration, it will be necessary to take steps for their social upliftment also.⁸⁰ The criminal tribes mostly follow the Hindu religion but occupy a very low position in the community as most of them are regarded as untouchables.⁸¹

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ Tarun Mene and Sarit K. Chaudhary, *Change and Continuity among Tribes* 17 (1d, 2019) Indira Gandhi Rashtriya Manav Sangrahalaya Bhopal.

⁷⁸ Malli Gandhi, *Enforcing Criminality, Application of The Criminal Tribes Act in India* 86 (1d, 2022) Manohar.

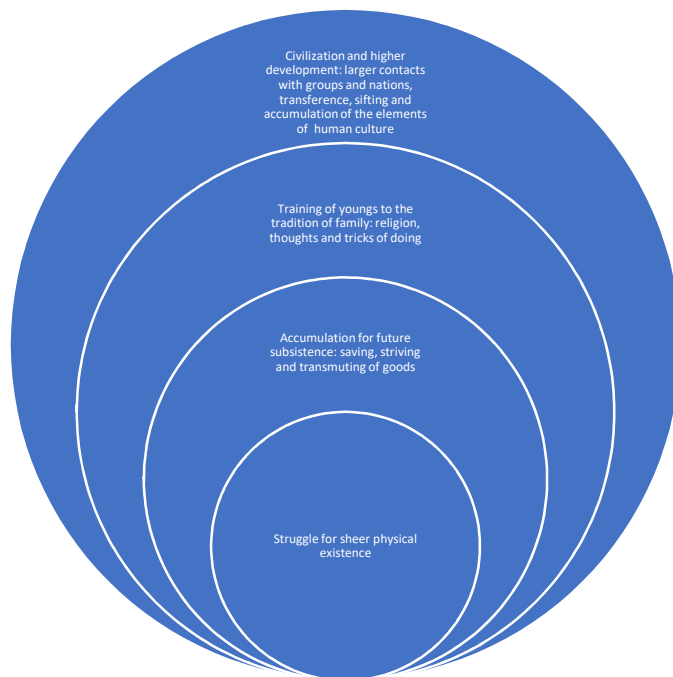
⁷⁹ *Ibid* 87.

⁸⁰ *Ibid* Appendix 7, Report of the Criminal Tribes Enquiry Committee, United Provinces, 1947 367 Point 15.

⁸¹ *Ibid.*

The Bhuria commission (2002) reviewed the working of the Fifth and Sixth schedules and indicated that tribal policies are ill-conceived or only partially considered the problems of illiteracy, poverty, indebtedness, sickness and malnutrition, shifting cultivation, land alienation, displacement and resettlement and social injustice. The failure of the promise of modernity is quite conspicuous.

There is a wide support to Maoists from the tribals and Dalits across many states covering all the Schedule V Areas. It is misleading to consider these socio-economic-political problems as law and order problem. The difficulty arises when socio-political-economic-cultural problems are endeavoured to be resolved by making laws. This has been a centuries old debate, whether laws are ought to be realistic and pragmatic or high on moralistic grounds. The salient features of laws are their wide acceptance, enforceability, effective implementation on the ground and the ultimate impact in the longer term.



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⁸² *Ibid* 263, De Bois model of four stages of development.

Is social exclusion a predestined after-effect of developmental processes? What are the handicaps in making development socially inclusive? Is it due to already available inequality in tribal society that the fruits of developmental processes are not equally reaped by all? Or that development will always be socially exclusive irrespective of the presence or absence of those handicaps in the tribal population. Is it because there are barriers to their participation- like illiteracy, lack of capital, lack of health? Is exclusion deliberate or a by-product?

When the organic unity is being broken by the brutal use of might, money, power, abuse and atrocities, how the participation of tribals be expected. Destroying social organisation, cultural identity, and resource base, undermining social solidarity and the state's predetermined notions about tribal life is ruining the entire intersectionality.

Post-covid, we must learn from the disaster of lock-downs, complete dismantling of transport, railways and the focus must be on the localised economy, self-sustained local areas, using local products. This will be not only environment friendly but also sustain tribal local markets.