

Tribal Resentment on Land Assertion in Scheduled Areas: Pathalgadi Movement and Adivasis Rights in Sundargarh District of Odisha

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ABSTRACT

The 'principles of justice' very well follow free thinking and problem solving and involve the pre-eminence of fairness and uniformity in society. The tribes, at the recent parameter of development, have lost their lands and livelihood due to rapid, irregular development projects with no outcome and massive displacement without proper and adequate rehabilitation and resettlement process. The Pathalgadi movement is introduced as illegal, anti-national, and Maoist-driven by the state administration led by the depressed tribals on tenacious land alienation as a democratic affirmation for realizing their rights as government negligence towards a balanced form of developmental perspectives. The paper analyzes the issues leading to tribals' discontent and their struggle for democratic and self-governance based on constitutional provisions.

HIGHLIGHTS

- ① The study focuses on tribal land grabbing because of irregular development plans and tribals' discontent.
- ② The discontent of tribals on the mis-management of equitable policy for the self-management of resources, protecting their forests, and securing their identity and ethnicity in scheduled areas has become the reason for the origin and rise of the Pathalgadi Movement.
- ③ The proper implementation of PESA and empowering the gram sabha as a sovereign power is the need of the hour to prevent land alienation and preserve the forest products.
- ④ Rawls' Concept of Justice emphasizes 'balance-distributive principles' to maintain equity in the basic structure of the society.

Keywords: Displacement, Forest, Justice, Land Alienation, Pathalgadi

To apprehend the appeal for justice is no more a solo action in human regulation; instead, it is an attempt to make others pay attention to their preferences and in this advocacy of success and failure as comes all together. Rawls's theory of justice incorporates not just dialogue. Still, its nature and sturdiness depend on contributions from discussion and monologue to firm identification that indicates the process through which seriously problematic exclusions are concerned for 'just'

societal realizations. Thus Rawls' Concept of Justice interrogates a 'proper balance' based on 'distributive principles for the basic structure of society. Rawls' concept of justice fundamentally includes the priority

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of liberty, procedural equality, and some demands of equity, combined with efficiency, in the form of giving precedence to promoting the interests and providing assets to the worst-off groups prevailing in the society. Disruption to any systematic procedure continues injustice because of uneven political norms and values due to vested interests. Therefore, the significance of public reasoning and opinion is emphasized by John Rawls himself in response to the nature of social choice theory. Social choice theory studies collective decision processes and procedures, a cluster of models and results concerning the aggregation of individual inputs regarding collaborative outputs (Sen, A. 2010).

Since Independence and the end of World War II, development has become a prime concern of state policymaking before every five-year plan strategy arrangement. Development as a structural political regime proclaims in various political agendas as “*Sab ka Saath Sab Ka Vikas*”, but in a real sense, concern to tribals excavating their land and forests is just a coercive development not a coercive and inclusive development. The outburst of the demands and interactions among the individuals in the society the voice of the vulnerable groups and aboriginals people of the land are unheard and their existence are unseen in the name of development in scheduled areas witnessing continues injustice both at the societal and economic level. Simultaneously, to make themselves positioned in the society, heterogeneous tribal groups in India have heightened movements to preserve a connection to their land, the environment, cultural practices, and secure, stable livelihoods. One such movement, so declared the Pathalgadi, gained acclamation in Chhattisgarh, Odisha, other districts of Jharkhand, and parts of West Bengal and Madhya Pradesh originated in Jharkhand’s Khunti district in late 2016, the birthplace of tribal freedom fighter and folk hero Birsa Munda.

The purpose of this paper is to undergo the tranquilities and problems in tribal areas relating to their land, forest, and identity, following with their protest and agitating movements in a broader sense of participation, activism, and struggle to protect their land and habitant politically. Displacement and Dispossession of tribal people from their land and forest have hampered

their source of livelihood, questioning their identity, ethnicity, and cultural distinction, leading to discomfort and agitation among the tribal people who need to restore and preserve their existence. Tribal Society has inter-changes, and so have the issues that aroused the tribals and led to their struggles. K.S. Singh (1985) indicated three phases of tribal movement in India. From 1795 to 1860, the first phase shows the discontent of tribes towards the establishment of the British Empire in India. The second phase covers the period between 1860 and 1920. This period was an intensive period of colonialism because European merchants crept on to the tribal economy and destroyed their dependency sources. The third phase covers the period from 1920 to India got Independence in 1947. During this period, the tribe launched a movement to establish a separate state and simultaneously participated in nationalist and agrarian movements (Shah, G. 2004). During the nineteenth century, various conflicts between the tribe and the British in different parts of the country when the British introduced their administration in tribal areas and merged tribal kingdoms. Most tribal leaders felt that the loss of power and recourses due to such administration would destroy their existence and revolted against the British Government. After Independence, the tribal movement triggered a different action related to discontent and inequities because of the negative approach towards tribals regarding political and administrative authority. Tribal movement occurs due to governmental disorder to provide basic facilities, as development projects fail to provide basic amenities to the displaced people, facing the loss of livelihood, breaking of kinship ties, and loss of agriculture. The tribal movement is against whom they feel as their oppressor in their respective region. They revolt against them because of exploitation in the form of encroachment on their land, evictions, annulment of the traditional legal and social rights and customs, land transfer to the industries, and displacement. On the whole, tribes are against the issues related to their experience (Sethy, S. 2016).

Trigger To Pathalgadi Movement: Tribal Agitation

Different scholars included incompatible classification of tribal movements as Mahapatra (1972) regulates widely

used for tribal activities; as reactionary, conservative, revisionary, or revolutionary. The reactionary movement catapults the evolution to bring back 'the good old days, whereas the conservative movement tries to preserve the status quo. The revisionary or revolutionary movements indicate 'improvement' or 'purification' of cultural or social order by eradicating 'evil' or 'low' customs, beliefs, or institutions. Surajit Sinha (1968) divides the movement and identifies as ethnic revolution, reform movement, and political autonomy movement within the Indian union, secessionist activities, and rural movement. M.S. Dubey (1982) classify the tribal movement in north-east India into four categories they are a religious and social movement, movement of separate statehood, insurgent movement, and cultural right movement. Some writers do not include contemporary tribal movement related to forest and environment rights, displacement due to development programmes in tribal areas of the state and market economy (Shah, G., *op.cit.*, pp. 95-96). In recent years the tribal movements are assuming a new disposition due to the rise of the international movement of indigenous people about self-management of resources, identity and ethnicity.

The word 'pathalgadi' means erecting of a 'stone slab'. The Adivasi of the schedule area have been doing 'pathalgadi' for various purposes, but now, 'pathalgadi' is chiefly done for tribal assertion for their self-rule. The pathalgadi is a stone slab symbolising Adivasi customary rights, practices, beliefs, and culture as mark occasions like birth, death, and the settlement on a new place. The entire village community is involved in erecting stone slabs in the village ceremoniously for different purposes. Pathalgadi is done to perpetuate the ancestors' existence, demarcate a village boundary to inform the history of the settlement of posterity to the presence of generation in the land claim rights (Ekka, V. 2018). In tribal tradition, *pathar* or stones are erected to notify, indicate or demarcate essential spots such as boundaries, homes, land, forests, and graveyards. Recently, tribal agitation has taken political shape to express dissent against the Government's lacuna in developmental activities in the scheduled areas. Some villagers started erecting stone slabs. They detailed the constitutional provisions for scheduled tribes and

added that government officials and non-tribals from other regions could not enter the village. They erect stone at the entry point of the village carved with Article 244 of the Constitution that gives tribes exclusive rights over their resources. Section 19 (5) of the fifth Schedule of the Constitution restrict the entry of outsiders, proclaiming slogans "we are the Bharat Sarkar (The Indian Government). "We do not admire the central and state Government or the president, Prime Minister, governor, our Gram Sabha is the real constitutional body, and we will not allow anyone to enter our area without permission. We will not be exploited anymore". "We are real inhabitants of this country- *Jal, Jangal, Jameen* (Water, Forest, and Land) is our, and no one can take them away from us". A 'pathal' rooted with a fresh coat of green paint at the village entrance declares the village is a prohibited zone for outsiders.

Virginus Xaxa indicated that the Pathalgadi movement has arisen from the continued land alienation from the tribal domain. It seems to democratic assertion for recognising their rights due to the Government's failure to implement the constitutional rights of the tribes, which is essential for their livelihood (Xaxa, V. 2019). Vincent Ekka explains that the Pathalgadi movement has transferred into political movement related to self-governance through traditional gram sabha and constitutional provisions that deal with the protection of tribal people in the fifth schedule area (Ekka, V. 2018). Anjana Singh indicates Pathalgadi movement has not only achieved a new sphere to Adivasi identity assertion around a customary practice but also questioned governmental approach and development. The meaningful empowerment of the gram sabha as an alternative agency to protect village governance is recognised as a multifaceted movement with political, ethnic, and ecological overtones (Singh, A. 2019).

Odisha and Jharkhand are considered the country's tribal-dominated states. They come under the fifth scheduled area provided by many constitutional provisions to safeguard their socio-economic, political and cultural development. According to the 2011 census, the tribal population constitute 8.6% of the nation's population. Odisha has got 22.8% of the state's population as a scheduled tribe, and Jharkhand has

reached 26% of the state's population as the scheduled tribe. The Chotanagpur Tendency Act 1908 (CNTA) and Santal Pargana Tendency Act 1949 (SPTA), these two Acts indicated land rights to the tribal people and prohibited the transfer of tribal land to non-tribals and also constrained commercial use of tribal land by non-tribal. These two acts protect tribal autonomy in the Chotanagpur plateau and conserve their ethical norms, values, and beliefs. The problem emerged when the Bharatiya Janta Party came into power in Jharkhand after the 16th general Lok Sabha election in 2014. An ordinance regarding the amendment of Chotanagpur Tendency Act 1908 and Santal Pargana Tendency Act 1949 was passed, which introduced the Government to acquire the lands from tribal people for commercial use without the permission of the *gram sabha* (Maanvi, 2020). Therefore tribes got conscious about losing their tribal autonomy and land rights because these two Acts legitimised the Gram sabha for enacting traditional customary laws without hindering the decision making process. In the khunti district of Jharkhand, greenstone slabs or plaques are installed by the tribes in their villages with the fifth schedule of the Constitution carved on it, which implies that the tribal autonomy is maintained and secured. This cultural practice so-called Pathalgadi movement was launched as a political tool to protest against such land and forest encroachment and spread to other states like Odisha.

Constitutional Provisions: PESA Act

Pathalgadi's extract from the PESA Act is designed to encourage a form of governance built on local traditions of participatory democracy. The PESA Act claims self-governance through 'gram sabhas' for the population residing in the Fifth and Sixth Scheduled areas, and the state legislature shall not regulate law under Part IX of the Constitution, which hold as:

- ❖ State Legislation is to conform with customary law, social and religious practices and customary modes of dispute. Every gram sabha shall be adequate to safeguard, protect, and maintain the people's traditions and customs, cultural identity, community resources, and customary laws.

- ❖ All laws, plans, programmes, and projects must coordinate with gram sabha objectives and approve before implementation.
- ❖ Sovereign power is granted to prevent land alienation and restore illegally alienated land and preserve the forest products to restore alienated land, manage village markets, and control local institutions and functionaries.
- ❖ Right to be consulted before land Acquisition

The Pathalgadi movement leaders inscribed important PESA (and other Articles of Constitution) on huge stones to acquaint the tribal people with the laws that entrust a village as an administrative system.

Coercive Development in Scheduled Areas of Odisha: Sundargarh District

Odisha is one of the wealthiest mineral resource areas in the country. Odisha natural resources show that coal, iron ore, and bauxite constitute around 96% of its mineral richness. Coal alone makes up 65010.27 million tons (MT) of mineral reserves, which is 86.88% of the total mineral reserves in Odisha and 22.74% of total coal reserves in India. It is mainly found in the Angul, Jharsuguda, Sundargarh, and Sambalpur districts of Odisha. Iron ore reserves of 5008.29 MT are located in the Keonjhar, Mayurbhanj and Sundargarh districts of Odisha, making up 6.69% of the total mineral deposits in Odisha and 28 % of the country's iron ore reserve. Bauxite reserves 2.41% as the third significant mineral mostly confined to the Koraput district, whereas 0.22% of chromites mineral resources are primarily located in the Jajpur and Dhenkanal districts of Odisha. Other minerals such as dolomite, limestone, fireclay and graphite are also found in Odisha, but their share of the total mineral reserve is much less. Odisha has established a large number of public sector undertakings like the Rourkela Steel Plant, National Aluminum Company (NALCO), Indian Aluminum Company (INDALCO), Hindustan Aeronautics Limited (HAL). There have also been several coal firepower projects besides dams like Mandira, Hirakud, Upper Kolab, Indravati, etc.

In Odisha, for example, of the 80 projects, as many as 57 were steel projects, six were aluminium projects

requiring 12,350 acres, and 15 were power projects demanding 19,200 acres of land. The result is that private land belonging to tribals and other cultivators has increasingly acquired the state for projects resulting in large-scale displacement. There is no reformation in their health and educational status for the cost of their land and livelihood without rehabilitation and resettlement. Benefits that came in irrigation and electrification did not touch their lands and homes but went to non-tribal.

Special consideration is towards acquiring tribal land because it has a relentless encounter with tribal existence. According to the World Bank, development projects displace one million people from their land and homes in developing countries every year (World Bank 1994). Between 1951 and 1990, around 21.3 million people were coercively dislocated in India alone, among whom 8.54 million (40%) were tribals, and only 2.12 million (24.8%) were resettled (Government of India 2002). According to the latest estimates, the total number of people displaced in India during the last 60 years is almost 60 million (Meher, R. 2009). According to the ministry of tribal affairs, 85.39 lakh tribals have been displaced from 1950 to 1990 due to mega projects or reservation of forest lands, and these Adivasis constituted more than 55 per cent of the total displaced population, despite the Constitution's fifth schedule, which pertains to tribal welfare, the plethora of schemes and laws in different states. The provisions of the recent central Forest Rights Act and the 73rd and 74th Amendments of the Constitution extended to the Scheduled Areas through the Panchayat (Extension to the Scheduled Areas) Act, 1996, India's tribal population is under siege. It is a fact that the draft National Tribal Policy (NTP) 2006 admits. "Alienation of tribal land is the single most important cause of pauperisation of tribals. The leading burden is that the lands lost are usually the most productive, leaving the tribals to cultivate poor quality land." The Forest Rights Act 2006 has granted some relief to the tribals, albeit as yet on paper. However, the real challenge is granting land rights and an implementable action plan to develop the forested areas under Adivasi rights (Tribal Rights: Promises and Reality 2007).

Sundargarh district constituted of two ex-states, namely Gangpur and Bonai, on 1st January 1948. It is one of the

southern parts of the Chotanagpur plateau region; it has excellent mining potentialities and mosaics rich in cultural heritage. Sundargarh identifies as an Industrial district of Odisha Rourkela Steel Plant, Fertilizer Plant, Cement Factory, Ferro Vanadium Plant are some of the district's major industries. Sundargarh occupies a prominent locus in the mineral map of Odisha. The district is nouveau riche in Iron Ore, Lime Stone, Manganese, Dolomite and Fire Clay and a large forest area that contributed 51.04% of the total geographical location of the district (Government of Odisha 2011). As per the 2011 census, Sundargarh district is 2nd in size and 6th in population, holding 50.7% of the entire district population. The literacy percentage of the district covers 73.3 against 72.9 of the state (Government of Odisha 2018).

Since Independence, such inevitable displacement among the indigenous population has raised the Adivasis consciousness. The Sundargarh *Zilla Adivasi Mulvasi Bachao Manch* submitted a memorandum to the Odisha governor to protect and follow their customary law through self-rule against land grabbing by the non-tribals in Scheduled Areas Sundargarh district, Odisha. After Independence in the year 1948, Ex-Gangpur State with Bonai merged in Odisha, renamed Sundargarh and announced as scheduled areas by Presidential Order 1950, providing provisions of Fifth Schedule of the Constitution of India. The intense economic growth and rapid development of the mineral affluent Sundargarh district, i.e., Dolomite, Limestone, Iron, Manganese, Coal, Silica, etc., was outlined to have minings and industries to manufacture metal and steel units. They were simultaneously mining processes initiated at Tensa-Barsuan for Iron ore, Lanjiberna, Purnapani, Birmitrapur & Gomardih for Limestone etc. Rourkela Steel Plant and allied industrial projects were introduced to operate these natural products like Auto India Kalunga, L&T Kansbahal, Marshalling Yard Bondamunda, OCL Rajgangpur, and to furnish water equip cater water dams (Pitamahal, Mandira, Kansbahal) were established. Both union and state governments have exploited and neglected to safeguard the constitutional provisions in scheduled areas for the sake of nation-building and economic growth. Various

Land acquisition laws were regulated, like the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act 1948. To check the enormous illegal capture of tribal lands without the concern of the aboriginal people. Thousands of families were deranged, compelled to vacate their homes, pushed to the impoverished stage without proper rehabilitation. Due to industrial acceleration and unchecked alteration of the non-tribal labour force, industrialists and business people migrated to these places from different parts of India. It changed the socio-culture, socio-economy and socio-political status, ignoring the interest and livelihood of Scheduled Tribe, particularly the displaced population of Sundargarh district (Odisha governor must exercise special powers and overcome anomalies on tribal land rights 2017).

Orissa Survey and settlement Act 1958, Orissa Land Reform Act 1960, Odisha Government Land Prevention of Encroachment Act, The Odisha Government Land Settlement Act 1962, etc., promulgate in Scheduled Areas contravening land regulations and protection as per the provisions of Fifth Schedule of the Constitution of India is concerned (*Ibid*). During the irregular settlement, lands were transferred to the non-tribals, and forest lands were exchanged to non-forest grounds, disrupting the Fifth Scheduled provisions. Instead of safeguarding the constitutional requirements for the welfare of the tribes, the legal rights were deprived and diluted through different schemes, projects and agencies. Sundargarh district faced 49 polluting Sponge Iron Factories, which constantly contaminated the water, air, and lands in the tribal habitats. Disproportionate and unrecorded profiteering of mineral resources was done by the state and corporate sectors. Uneventfully Maoism theories entered the peace centric Scheduled Areas of Odisha. Unfortunately, the counter between the Maoist and special police force, the innocent tribals and their kinship leaders, were targeted, producing unrest in the tribal settled areas.

Failure to maintain the FRA 2006 by the Government of Odisha, the historical injustice prevailing during the British period continues in protecting the eco-system and maintaining the forest's survival and sustainability

by the tribals. Till present PESA Act, 1996 had not been implemented in true spirit resulting vacuum in the implementation of FRA 2006. The Forest Right Committee comprised in the village as defined in Section 4 (b) of the PESA Act 1996 means such provisions introduced in the Scheduled Areas of Odisha are null. Land Banks, Special Survey and settlement Act 2012, Rule, framed on Ordinance (Odisha Land Grabbing (Prohibition) Rules 2015), the Odisha Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Rules, 2016, were made and implemented in Scheduled Areas hampering the spirit of the fifth schedule of the Indian Constitution (*Ibid*).

Demand for Decent Development and Protection of Their Forests

Virginius Xaxa argues as the state government pronounced in the media about the Pathalgadi movement as "anti-national" and "Maoist-driven," tribals face the prolonged conflict of land alienation. The present tribal areas are being ruled just as the British brought the tribes under their administration, imposing laws, rules, regulations, and administration contradictory to the tribes and their culture. The impoverished land and revenue settlements popularised for private property in acquiring lands and full support of the Government brought devastation in tribal areas. Such land alienation and transfer of tribal land to non-tribes, even after unambiguous legal provisions to protect tribal rights, indicated in the Indian Constitution, has brought discontent among the tribal people. The responsibility rendered to the agents and administrative institutions carried little knowledge about the provisions and laws that preserve it for the tribes.

The tribals through this pathalgadi movement need to talk about balance development and protecting their land and forests. For instance, the tribals have a concept of the essential unity of life. As an Australian aboriginal poet has said,

Animals are like family to me
Earth is our mother
Eagle, our cousin,
The tree is pumping blood

We are all one (Bill Neidgie)

Tribals and their culture have been recognised as the custodians of ancient knowledge to understand the abundant environment and resources preserved and protected. Tribals have generally lived in relative harmony and are closely connected with their surroundings. However, forest dependency is highest, but they do not extract more than needed from their forest. Tribals conserve the forest resources that they never over-exploit and allow for the natural regeneration of forest and sustainability for forest life. The governments, contractors, and petty traders announced the current developmental projects have destroyed their forest lands and hills, polluted their rivers, and killed their lineages as their identity and culture. Thereby such discontent and discourse in tribal habitats have forced them to protest against the Government to correctly preserve their land with a constructive balanced approach in the utilisation of resources, and development perspectives are concerned as a universal principle. Tribals deserve a decent life, liberty, and social and economic justice in living. Their culture is unique related to their *Jal, Jangal, Jameen* and should be allowed to develop and redefine themselves. The tribal culture is an essential heritage to the human generation. It is based on a value system in fabricating new world order concern apprehensive to the principles of equity, harmony, compassion, peace, and justice to all. This age-old culture and its connection with nature are valuable. Their unity with mountains, valleys, streams, plants, and animals holds the principles of sharing and caring for one and all. Tribals' rights on their resources should be recognised as inalienable rights. Their languages identified as imparting education at the primary stage to protect tribal from land alienation and forest property. Perhaps their participation in social and political institutions of decision-making need to guarantee (Singh, K.S. 1997).

CONCLUSION

Thus, according to John Rawls, the concept of justice is rendered upon "the public system of rules introducing the activities that undergo men to act together to produce a greater sum of benefits and assigns to each other certain recognised claims to share accordingly."

It is significant as comprehensive reasoning of justice related to rights, duties, privileges, and responsibility among the community members (Sen, A., *op.cit.*, pp. 88-90). It further symbolises cooperation between the individuals and the various constitutional institutions with significant political, social and economic activities connected with the administration of state as an integral part of pure procedural justice to make democracy more effective on demands based on social choices and fairness. In the development process, the state cannot close its eyes; instead, it can bridge the gap between tribals demand and a balanced progression of the society wholly. Thereby a question arises why Government doesn't consult the tribals and consider them in the decision-making process? Then, why do they expect the involvement of the tribals in such a one-sided engagement? Is the development emphasises invariable inclusion? In this massive line of development, the tribes are the actual sufferers without any compensation or sympathetic concern. The question arises that do tribals are against development. Still, in a true sense, they are not against growth, but development must be ethical and regarded to fulfil the needs of all and protect the very existence of one's identity and integration. The rise of the Pathalgadi Movement is against the sophisticated state model of development where the monopoly government enjoys the surplus value with all physical force. In contrast, the provider of all resources stands empty-handed. It indicates that if cooperation is denied the democratic assertion, agitation becomes the only way to fight against discrimination and injustice.

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