

RESEARCH ARTICLE

Framing the Fifth Schedule: Tribal agency and the making of the Indian Constitution (1937–1950)

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Abstract

As a means to resolve the Tribal Question in India, the centrality of the Fifth and Sixth Schedules of the Indian Constitution is widely acknowledged. However, their final incorporation, despite intense nationalist opposition in the run-up to Indian Independence, remains historically unexplained. This article addresses this lacuna by reconstructing the circumstances under which the Indian National Congress came to accept scheduling as a viable method of providing protection to tribal communities. This strategic shift can be explained as a result of combined political pressures generated by communist-led tribal movements and a steadily mounting challenge heralded by a new stream of educated middle-class tribal activists in eastern India. Foremost among the latter was Jaipal Singh Munda who mobilized a large constituency of supporters demanding a separate province of Jharkhand. Taken together, there is enough evidence to prove that in the period 1937–1950, the tribes were not silent and their collective agency had a deep impact on the constitution-making process. Finally, the article argues that this period witnessed a significant change in the character of the Congress as erstwhile freedom-fighters turned into ruling elites.

Keywords: Tribe; Constituent Assembly; Fifth Schedule; Indian Constitution; communist; Jaipal Singh; Adivasi Mahasabha

Introduction

In independent India, the discourse on tribal people has tended to centre on the ‘politics of language, religion and identity’.¹ This has fed into the Union

¹ V. Xaxa, ‘Politics of language, religion and identity: tribes in India’, *Economic and Political Weekly*, Vol. 40, no. 13, 2005, pp. 1363–1370.

Government's tribal policy, the cornerstones of which are the Fifth and Sixth Schedules of the Indian Constitution. These 'contain provisions for governance of tribal areas, enable devolution of power...safeguard their traditions and practices [and], most importantly, guarantees protection of their land rights'.² At the constitutional level, the incorporation of predominantly tribal areas into the these schedules was meant to facilitate and legitimize their integration into the body-politic of the fledgling Indian nation-state.³ While the colonial lineages of these schedules are apparently well known,⁴ the post-colonial processes through which they ultimately found a place in the Constitution of India have not been explained historically.

The reasons for this lacuna in academic understanding may have to do with the fact that scholarship surrounding the constitution-making process has often focused on other issues.⁵ When differences among groups and their rights in the apparatus of Indian democracy have been debated, the discussion has tended to coalesce around the 'minorities' question and its 'nationalist resolution'.⁶ Furthermore, existing scholarship has relied rather heavily on the Constituent Assembly (CA) debates to gauge the intents and motives of warring ideologues.⁷ While it is true that these debates provide a fascinating window through which to analyse how differences were reconciled, the wider political dynamics of the time also need to be scrutinized. As Neera Chandhoke writes, '(I)n countries that witness mass movements for freedom, constitutions are historically fashioned documents. They express the aspirations of the age and are a pact for the future. The text of the constitution cannot be read in abstraction from the political, the social and the economic context.'⁸ Building on such insights, this article attempts to illustrate the political context outside the CA which affected the drafting and subsequent incorporation of the Fifth and Sixth Schedules into the Constitution of India.

While earlier scholarship often presented the Constitution as the product of the 300-odd wise members of the Constituent Assembly,⁹ it has become

² S. G. Malhotra, 'Tribal autonomy undermined', *Economic and Political Weekly*, Vol. 49, no. 13, 2014. Also see C. R. Bijoy, Shankar Gopalakrishnan and Shomona Khanna (eds), *India and the rights of indigenous peoples: constitutional, legislative and administrative provisions concerning indigenous and tribal peoples in India and their relation to international law on indigenous people* (Chiang Mai: AIPP, 2010), pp. 221–245.

³ V. Xaxa, 'Tribes, tradition and state', *The Newsletter*, 53, 2010, available at https://www.ias.ac.in/sites/ias/files/nwl_article/2019-05/IIAS_NL53_18.pdf, [accessed 26 May 2022].

⁴ Rahul Sen, 'Tribal policy of India', *Indian Anthropologist*, Vol. 22, no. 2, 1992, pp. 77–89.

⁵ For a conglomeration, see Sujit Choudhry, Madhav Khosla and Pratap Bhanu Mehta (eds), *The Oxford handbook of the Indian Constitution* (Delhi: Oxford University Press, 2016).

⁶ See Rochana Bajpai, 'Constituent Assembly debates and minority rights', *Economic and Political Weekly*, Vol. 35, no. 21/22, 2000, pp. 1837–1845 and Rochana Bajpai, *Debating difference: group rights and liberal democracy in India* (Delhi: Oxford University Press, 2011).

⁷ See Malvika Maheshwari, 'Collective conservatism and the Constituent Assembly debates: the case of free speech in India', *Studies in Indian Politics*, Vol. 5, no. 2, 2017, pp. 218–232.

⁸ Neera Chandhoke, 'The antecedents of social rights in India', in Udit Bhatia (ed.), *The Indian Constituent Assembly* (London/New York: Routledge, 2018), p. 96.

⁹ Granville Austin, *The Indian Constitution: cornerstone of a nation* (New Delhi: Oxford University Press, 1966).

increasingly apparent that the making of the Indian Constitution was an intricate process in which contingent political conditions and negotiations often determined which (or whose) idea(s) were adopted, discarded, or modified.¹⁰ In keeping with this approach, I shall try to show how an analysis of the political situation in several tribal theatres can help us to understand the final framing of tribal welfare policy in the Constituent Assembly debates.

In colonial statecraft, the instrument of scheduling was the act of committing certain areas to a written list or inventory of 'special administrative regimes' where normal laws and regulations prevalent in the rest of British India were not applicable. Much of the existing literature on the Fifth and Sixth Schedules assumes that these were modelled on the proposals for partially excluded and excluded areas of the Government of India Act, 1935 respectively.¹¹ The British Indian empire historically had three large tribal belts situated in the frontier zones of the North West, the North East, and, lastly, what scholarship has termed the 'internal frontier' running across the great Indian peninsula. After Independence and partition, owing to the preponderance of Islamized tribes, the northwestern frontier tracts went over to the new nation-state of Pakistan, while the latter two remained within the Union of India. This article is chiefly concerned with the third category of tribal areas which, in the language of late colonial constitutional reforms, were termed as areas of 'modified exclusion'/'partially excluded areas' under the Government of India Acts of 1919 and 1935 respectively. Many of them were classed under the Fifth Schedule of the Constitution of India.¹² Thus, this article will focus on the 'politics of scheduling' in what became known as the 'Fifth Schedule areas' spread across central and eastern India. Despite a high degree of congruence in the terms of discourse, I have chosen to focus on the Fifth Schedule areas for two reasons. First, they exhibited a kind of politics which differed significantly from the one played out in Sixth Schedule areas in northeastern India. The second is the virtual absence of historiography on them.¹³

¹⁰ For recent treatments along these lines, see Mithi Mukherjee, *India in the shadows of empire: a legal and political history 1774-1950* (Delhi: Oxford University Press, 2010); Sandipto Dasgupta, "'A language which is foreign to us": continuities and anxieties in the making of the Indian Constitution', *Comparative Studies of South Asia, Africa and the Middle East*, Vol. 34, no. 2, 2014, pp. 228-242; Arvind Elangovan, 'Provincial autonomy, Sir Benegal Narsing Rau, and an improbable imagination of constitutionalism in India, 1935-38', *Comparative Studies of South Asia, Africa and the Middle East*, Vol. 36, no. 1, 2016, pp. 66-82.

¹¹ For the most recent reiteration of this formula, see Varsha Bhagat-Ganguly and Sujit Kumar, 'Introduction', in Varsha Bhagat-Ganguly and Sujit Kumar (eds), *India's Scheduled Areas: untangling governance, law and politics* (London and New York: Routledge, 2020), p. 1.

¹² While most of the northeastern frontier region were indeed notified as 'excluded areas' since the enactment of the Government of India Act, 1919, areas (in provinces outside Assam) were also notified as 'excluded' in Madras (Laccadive Islands and Minicoy), Punjab (Spiti), Bengal (Chittagong Hill Tract), Bihar and Orissa (Angul), and Burma (all listed backward tracts). Hence, any strait-jacketed formulation that excluded areas comprised the Sixth Schedule, while the partially excluded areas formed the Fifth Schedule is a misleading one.

¹³ There have been some recent studies, such as Bhagat-Ganguly and Kumar (eds), *India's scheduled areas*. However, such studies are policy-driven ones and lack a historical perspective. In the

In the recent past, there has emerged a more sustained academic engagement with the excluded areas situated in the northeastern region. Stephen Legg, in his analysis of space and dyarchy in Assam and Darjeeling, which were both 'excluded' to varying degrees from constitutional reforms, suggests that the British provincial governors' justifications were intended at 'pawing off the encroachments of democracy'. With this overall objective, the excluded areas of various hues were constituted into a network that embedded 'autocracy within putatively democratic frames of dyarchy'.¹⁴ In a similar vein, Shaunna Rodrigues has argued, from a political theory perspective, that excluded areas acted as the 'limit of the political'.¹⁵ Refreshingly, she has added the British parliamentary debates in her analysis which has enriched the scholarly discourse on scheduling. Ornit Shani's work has similarly put across important tribal voices emanating from the northeast which were demanding enfranchisement within the nation-state.¹⁶

While Legg, Rodrigues, and Shani provide valuable insights, their focus is mainly on the areas constituting the Sixth Schedule in the northeastern part of the Indian subcontinent. While Legg's article usefully foregrounds how the creation of excluded areas within the constitutional regime of dyarchy later created specific arenas for political dynamics, his analysis emanates from Foucaultian biopolitics which is inadequate to analyse the discourse on scheduling as well as its historical dynamics.

Rodrigues' analysis, on the other hand, while being persuasive on the point of 'murky boundaries' of delineation leading to a palpably 'standoffish' character of the colonial state, suffers from two problems. First, such theoretical claims are almost always conceived in terms of a project mode of state-building which disregards the contingent in historical time. This problem is especially perceptible when there are visible moments of rupture. In Rodrigues' theoretical attempt, the chaos surrounding the sudden transfer of power (the Mountbatten Plan) that led to Indian Independence and the constitution-making exercise is given a short shrift. The second problem with her formulation is that it plays upon a misconceived and false stereotype which is widely prevalent in scholarship on Indian tribes. This is the idea that the Scheduled Districts Act (SDA) of 1874 marks the beginning of the phenomenon of scheduling in British India.¹⁷

Thus, it is my express contention that there is no truth behind the argument that the SDA, 1874 was the first all-India legislation which 'concretised

said volume, there is only one article, by Asoka Kumar Sen, on the Manki-Munda system of West Singhbhum which is historiographical in nature and hence an exception.

¹⁴ Stephen Legg, 'Dyarchy: democracy, autocracy and the scalar sovereignty of interwar India', *Comparative Studies of South Asia, Africa and the Middle East*, Vol. 36, no. 1, 2016, pp. 44–65, esp. pp. 47, 54, 62.

¹⁵ Shaunna Rodrigues, 'Excluded areas as the limit of the political: the murky boundaries of Scheduled Areas in India', *The International Journal of Human Rights*, Vol. 25, no. 7, 2021, pp. 1126–1147. <https://doi.org/10.1080/13642987.2021.1874359>.

¹⁶ See Ornit Shani, *How India became democratic: citizenship and the making of the universal franchise* (Gurgaon: Penguin Viking, 2018), Chapter 6, particularly pp. 212–221.

¹⁷ Rodrigues, 'Excluded areas as the limit of the political', p. 4.

the new colonial regime of direct rule in places identified as distinctly tribal'.¹⁸ At best an erroneous impression, there was absolutely nothing 'tribal' about the SDA, 1874. This misplaced notion was buttressed in scholarship because most of the later backward tracts and excluded/partially excluded areas also feature in the list attached to the SDA, 1874. However, there are also many other areas in the schedules of the SDA which do not even get a mention in the late constitutional discourse on scheduling. Such incongruities have been conveniently glossed over in tribal/Adivasi Studies and hence the resultant commonsensical notion about the SDA as a 'tribal' legislation codifying indirect rule is merely an assumption.¹⁹

Ornit Shani's intervention is chiefly concerned about the preparation of electoral rolls towards the first general elections. She has recovered several tribal voices demanding the power to vote which shakes up the notion that tribes remained by and large silent in the constitutional discourse. On the contrary, tribal agency represented in groups and associations actively helped to create modern political institutions in the northeastern frontier. However, Shani's focus is squarely upon the electoral process which constitutes only one aspect of the discourse on scheduling.

An important theme raised in Shani's work relates to the role played by tribal agency in the making of the Indian Constitution. Were tribals the 'first citizens',²⁰ characteristically silent even in the last phase of colonial rule in India? Who spoke for them and who claimed the authority to frame measures on their behalf? In this context, there is a need to evaluate historically the role the tribes themselves played in the ultimate resolution of the Tribal Question.²¹

In this regard, an important article by Pooja Parmar is perhaps the only rigorous scholarly work that discusses the role played by Jaipal Singh Munda, a very important but largely sidelined leader from the Chotanagpur region, in framing the constitutional discourse on the tribes in general and on the Fifth Schedule in particular.²² Parmar focuses on 'Jaipal Singh Munda's repeated calls for righting old wrongs in the Constituent Assembly of India'.²³ She argues that Munda's demands were couched in the language of justice for his fellow Adibasis (original inhabitants) who shared a glorious past of 'tribal republics' and desired an autonomous future at the foundational moment of the new nation-state. To voice these aspirations, Munda tried to frame the right over land as a fundamental and inalienable one for his

¹⁸ Uday Chandra, 'Liberalism and its other: the politics of primitivism in colonial and post-colonial Indian law', *Law and Society Review*, Vol. 47, no. 1, 2013, p. 144.

¹⁹ This is a nineteenth-century story that I have surveyed in my book, Saagar Tewari, *Islands against civilization: anthropology, nationalism and the politics of scheduling (1918-1950)* (forthcoming).

²⁰ See Meena Radhakrishna (ed.), *First citizens: studies on Adivasis, tribals, and indigenous peoples in India* (Delhi: Oxford University Press, 2016).

²¹ For an exception, see K. S. Singh, 'Tribes, partition and independence', in S. Settar and Indira B Gupta (eds), *Pangs of partition* (New Delhi: Manohar, 2002), Vol. 1, pp. 259-276.

²² Pooja Parmar, 'Undoing historical wrongs: law and indigeneity in India', *Osgoode Hall Law Journal*, Vol. 49, no. 3, 2012, pp. 491-525.

²³ *Ibid.*, p. 524.

constituency by providing a reading of Indian history in which the Adibasis were systematically dispossessed by latter-day immigrants. However, in a CA dominated by Congressmen, such perspectives or demands were not taken seriously.

As Parmar points out, the phrase 'Scheduled Tribes' adopted by the CA in preference to the colonial category 'aborigines' or 'Adivasi' (adopted by Jaipal Singh and the Adivasi Mahasabha) meant that the claims by indigenous people 'were thus effectively written out of the *Constitution*, foreclosing any possibility of a future recognition in the country's law'.²⁴ This move also 'changed the terms of discourse' as the Scheduled Tribes were now entitled to help and protection from the nation-state on account of their perennial state of 'backwardness' which 'underscores the denial of agency to them'. Thus, in Parmar's narrative, Jaipal Singh Munda stands as a man wronged by the Congressmen inside the CA. I would argue that such a limited interpretation robs Jaipal Singh Munda and the organization he spearheaded (Adivasi Mahasabha) of vital agency which was showcased during the Jharkhand movement. Parmar herself suggests that a 'fuller account' of Jaipal Singh's political career outside the CA, 'before, after and during the debates would offer a more comprehensive understanding of the role that he played as a leader of Adivasis in India'.²⁵

In response, this article situates the political imagination and activities of Jaipal Singh Munda in the context of the eastern and central Indian tribal region. When we reverse the perspective away from the CA, Munda's life assumes a completely different scale and meaning, and begins to exemplify the high-water mark achieved by tribal agency during the constitution-making phase. While Parmar's account is either influenced by voices of Congressmen who, in ridiculing Munda, symbolize a 'complete denial of Adivasis' agency' or it highlights the delays in the submission of the reports of the sub-committees which procrastinated on the discussion of the Tribal Question, when the discussions on the Scheduled Areas did finally take place in September 1949, Parmar notes that Jaipal Singh Munda's 'earlier confidence appears to have diminished by this time'.²⁶ Clearly, then, from the very first speech that Munda made on the Objectives Resolution in December 1946 to the rather hurried ones on the Fifth and Sixth Schedules, a lot happened outside the CA. Thus, any analysis that does not factor in the effects of the Jaipal Singh Munda-led movement for the separation of partially excluded areas of Chota Nagpur division and Santhal Parganas from Bihar Province will not do justice to an informed analysis of tribal agency. It is to be noted that much of the resistance that Munda encountered throughout his CA career in the debates, and particularly the amendments he moved with regard to the Fifth Schedule, were made by Congressmen from Bihar.²⁷

In this article, I show how the discourse of scheduling in late-colonial India serves as a unifying thematic paradigm to integrate the extremely

²⁴ Ibid., p. 515.

²⁵ Ibid., p. 504.

²⁶ Ibid., p. 521.

²⁷ See the rather disparaging remarks by two Congressmen from Bihar, Jadubans Sahay and Brajeshwar Prasad, cited in *ibid.*, pp. 517, 520.

disparate tribal communities spread across British India. In doing so, a survey of developments from 1937 to 1950 has been undertaken to reconstruct the contingent political circumstances under which the Congress dropped its principled opposition to scheduling and facilitated constitutional safeguards for Indian tribal populations. As Indian nationalists chose to retain many of the judicial, legal, and administrative systems put in place by the British, colonialism veritably did not end with the transfer of power. This article is but one small attempt to fill the many gaps that remain in explaining this transition, with its attendant continuities and changes. Against the background of ongoing legal and political debates regarding the impact of colonial and post-colonial state policies on marginalized tribal communities, it is a worthwhile exercise to attempt to understand the historical trajectory through which such areas were delineated. Such a historically grounded analysis fulfils the ‘need to examine the extent to which tribal policy has been an instrument of marginalisation’.²⁸

Resetting the terms of discourse: Scheduling as the Tribal Question

In the late colonial period, the future of tribal communities inhabiting the Indian sub-continent became the subject of an intense polemical debate. Termed the ‘Tribal Question’, it has been largely presented in scholarly literature as an ideological contest between Verrier Elwin²⁹ and G. S. Ghurye.³⁰ Their respective schools of thought have been dubbed ‘Isolation/Protection’ versus ‘Intervention/Assimilation’, wherein these two ideologues sparred about the most appropriate policy for safeguarding the interests of tribal communities residing within the British Indian empire.

Within the evolving constitutional discourse, the Tribal Question signified the multifaceted debate on the pros and cons of scheduling as an instrument of providing protection to aboriginal tribes. Unfortunately, the core issue lying at the heart of the debate—that is, scheduling—has been given short shrift, while a barely existing one—that is, the Ghurye-Elwin debate—has reams writ-

²⁸ Savyasachi (ed.), *Tribal forest-dwellers and self-rule: the Constituent Assembly debates on the Fifth and Sixth Schedules* (New Delhi: Indian Social Institute, 1998), p. vii.

²⁹ On Verrier Elwin, see the biography by Ramachandra Guha, *Savaging the civilised: Verrier Elwin, his tribals, and India* (New Delhi: Penguin, 2014 [New Delhi: Oxford University Press, 1999]). This book has often been lauded for an empirical and intimate portrayal of Elwin. However, as Virginius Xaxa argues in his review of Guha’s book published in the *Economic and Political Weekly*, by glossing over the silences and erasures within the highly contradictory life of his muse, ‘Guha comes across as Elwin’s spokesperson through the book’: Virginius Xaxa, ‘Elwin’s tribals’, *Economic and Political Weekly*, Vol. 36, no. 18, 5 May 2001, pp. 1519–1520.

³⁰ There have been a number of scholarly studies on Govind Sadashiv Ghurye, an early pioneer of Indian sociology and anthropology. For a critical understanding of Ghurye’s work, see Nicholas B. Dirks, ‘G. S. Ghurye and the politics of sociological knowledge’, *Sociological Bulletin*, Vol. 62, no. 2, May–August 2013, Special Issue on the Bombay School of Sociology: stalwarts and their legacies, pp. 239–253; Carol Upadhyay, ‘The Hindu nationalist sociology of G. S. Ghurye’, *Sociological Bulletin*, Vol. 51, no. 1, March 2002, pp. 28–57. For a somewhat hagiographic account, see S. K. Pramanick, *Sociology of G. S. Ghurye* (revised second edition) (Jaipur: Rawat, 2020).

ten on it.³¹ Consequently, there is very little scholarly literature on the idea of scheduling. Therefore, it will be useful to survey some broad trends and misconceptions which have long persisted without any revision.

The term 'Tribal Question' was deployed in the Constituent Assembly debates and has been used by sociologists like Nandini Sundar in secondary literature on the period.³² While I have adopted the term for these historical and historiographical reasons, there are two crucial points of departure from Sundar.³³ My first difference is on the issue of the chronological time frame. While Sundar has situated the debate between 1927–1950, I contend that it actually commences with the Montague-Chelmsford reform proposals in 1918, stays within the colonial administrative apparatus, and spills over to the political domain by the mid-1930s.³⁴

Secondly, following most established scholarship, Sundar has rather uncritically accepted the so-called Ghurye-Elwin debate.³⁵ As a discursive trope, this formulation remains ubiquitous and sadly unquestioned within tribal studies in India. On this count, it is my contention that no such debate ever took place and, especially after the departure of Dr John Henry Hutton³⁶ (the all-India census commissioner for 1931), the real fault lines emerged between A. V. Thakkar³⁷ and Verrier Elwin. Therefore, in the battleground of ideas on

³¹ There is a long series of publications which assume the centrality of the so-called 'Ghurye-Elwin debate'. A few key ones are: Anjan Ghosh, 'Whither Indian sociology?', *Other Sociology*, Vol. 1, 1989; Tiplut Nongbri, 'Tribe, caste and the indigenous challenge in India', in Bengt G. Karlsson and Tanka B. Subba (eds), *Indigeneity in India* (London: Kegan Paul, 2006), pp. 75–95; K. S. Singh, 'G. S. Ghurye, Verrier Elwin and Indian tribes', in A. R. Momin (ed.), *The legacy of G. S. Ghurye: a centennial Festschrift* (Bombay: Popular Prakashan, 2006), pp. 39–45; A. C. Sinha, 'Colonial anthropology vs indological sociology: Elwin and Ghurye on tribal policy in India', in Tanka B. Subba and Sujit Som (eds), *Between ethnography and fiction: Verrier Elwin and the tribal question in India* (New Delhi: Orient Longman, 2005), pp. 71–85; Virginius Xaxa, 'Tribes as indigenous people of India', *Economic and Political Weekly*, 18 December 1999, pp. 3589–3595; Virginius Xaxa, 'Tribes in India', in Veena Das (ed.), *The Oxford companion to sociology and social anthropology in India* (Oxford: Oxford University Press, 2003), pp. 373–408.

³² See the eponymous chapter in Nandini Sundar, *Subalterns and sovereigns: an anthropological history of Bastar, 1854–1996* (Delhi: Oxford University Press, 1997), pp. 156–190.

³³ I will present detailed findings on the discourse of scheduling in my forthcoming book: Tewari, *Islands against civilization*.

³⁴ Saagar Tewari, 'Tribe and development: nation-making in Bastar, central India (1930s–1980s)', PhD thesis, Centre for Historical Studies, Jawaharlal Nehru University, New Delhi, 2014.

³⁵ See Sundar, *Subalterns and sovereigns*, pp. 180–183. For a relatively recent, if brief, reiteration, see 'Introduction', in Nandini Sundar (ed.) *The Scheduled Tribes and their India: politics, identities, policies and work* (New Delhi: Oxford University Press, 2016), p. 20.

³⁶ For a general overview of J. H. Hutton, see P. K. Mishra, 'J. H. Hutton and the colonial ethnography of north-east India', in T. B. Subba (ed.), *North-east India: a handbook of anthropology* (New Delhi: Orient BlackSwan, 2012). For a brief and comparative account of Hutton's role in the very framing of the discourse on scheduling vis-à-vis W. V. Grigson, see Saagar Tewari, 'Spaces of protection, regimes of exception: anthropologists, administrators and the framing of the late colonial discourse on tribal regions (1920–1950)', *Karatoya: North Bengal University Journal of History*, Vol. 12, March 2019, pp. 114–130.

³⁷ For an overview of A. V. Thakkar's life and career, see (in Hindi) Saagar Tewari, 'Kasht nivarak Thakkar bapa: samaj seva ko samarpit jivan par ek vihangam drishti', *Pratimaan: samaj samaj sanskriti*, Vol. 5, no. 2, July–December 2017, pp. 278–296.

Indian tribes, Ghurye made only a proxy appearance, launching a blistering attack on Verrier Elwin's protectionist position in his book *The Aborigines—'so-called'—and their Future*.³⁸ On his part, Elwin remained silent and quite uncharacteristically never issued a single public or private response.³⁹ Despite Elwin's deafening silence, it is at least amusing to question why no scholar has ever called into question the very idea of the Ghurye-Elwin debate. Additionally, a serious—and often overlooked—aspect of Ghurye's book is that, in the main, it was the high-water mark of the nationalist critique of the idea of the 'ring-fencing' (or scheduling) of large territories away from the law-making powers of elected assemblies and councils. In the process, Ghurye undercut the protectionist argument of colonial anthropology and sharpened the nationalist one for the assimilation of tribes who were essentially characterized as 'Backward Hindus'.⁴⁰

Nevertheless, despite the obvious lack of focus on scheduling and a misguided one on the much vaunted but archivally ephemeral Ghurye-Elwin debate, there were indeed two opposing schools of thought which emerged in late colonial India. On the one hand stood the anthropologists, who viewed the Tribal Question primarily as an administrative problem. They held that the introduction of electoral democracy would harm the tribal people and, consequently, there was a need to 'exclude' or 'partially exclude' the predominantly tribal areas of British India from the legislative powers of elected assemblies and councils. The nationalists, on the other hand, were vehemently opposed to such a policy of territorial segregation, viewing it as but another instrument of the British policy of 'divide and rule'. For them, the Tribal Question required a legislative solution as, arguably, it was the arbitrariness of the colonial administrative model that had led to the enduring backwardness of tribal communities. The Indian National Congress consistently maintained that the only way in which tribal people could be uplifted from their backwardness was by giving them guaranteed representation in the legislative bodies of the Indian nation.⁴¹ In a nutshell, what has been termed 'Isolation/Protection' was the position of the anthropologists who wanted the scheduling of predominantly tribal areas. The nationalists opposed to scheduling constituted the advocates of 'Intervention/Assimilation' who wanted to jettison scheduling as an instrument, lock, stock, and barrel. What has been dubbed ideologies/ideologues

³⁸ G. S. Ghurye, *The aborigines—'so called'—and their future* (Poona: Gokhale Institute of Politics and Economics, 1943).

³⁹ Indeed, Elwin was enraged by Ghurye's invectives upon him; as editor, he did consider publishing a special issue of *Man in India* which would have included reviews of *The aborigines—'so called'—and their future* by W. V. Grigson, Christoph von Furer-Haimendorf, and B. S. Guha with a view to 'putting Ghurye in his place'. However, Ram Guha argues that, upon Archer's advice, the journal took the 'more prudent and politic course of ignoring the book'. See Guha, *Savaging the civilized*, p. 160.

⁴⁰ Saagar Tewari, 'Framing "backwardness": nationalist responses to the tribal question (1920–1950)'. Paper presented online at the Fourth Ireland India Institute South Asian Studies Conference on 30 April 2021.

⁴¹ See O. P. Gautam, 'The Indian National Congress and nation building', *The Indian Journal of Political Science*, Vol. 46, no. 4, 1985, pp. 487–505.

(Elwin-Ghurye) in the debate on tribal futures were actually pitched battles for and against the constitutional instrument of scheduling.

Consequently, what I have called as the ‘politics of scheduling’ was a tug-of-war between the anthropologists and the nationalists. The contradictions within this dialectical framework sharpened after the Second World War ended. Thus, it was within the highly contingent unfolding of the politics of scheduling that the final leg of CA deliberations over the Tribal Question was played out. Given staunch nationalist opposition to the very idea of scheduling, the formulation and enshrinement of the Fifth and Sixth Schedules within the Constitution of India remains a puzzle. This article is an attempt to provide an answer through an analysis of tribal agency in multiple theatres.

The final wave of colonial administrative discourse: The road to the Constituent Assembly

During the Second World War, Sir Reginald Coupland, the Beit professor of colonial history at the University of Oxford, addressed the Tribal Question in the last of his three-volume report on the constitutional problem in India.⁴² Coupland outlined three essential elements of the framework for aboriginal welfare in India, namely, protection of land and customary life; expansion of social services, especially health and education; and, finally, sympathetic administration along the lines of indirect rule as practised in British Africa.⁴³

Drawing on these and other suggestions from colonial bureaucrats, Leopold Amery, the secretary of state for India, wrote to Viceroy Wavell in September 1944,⁴⁴ impressing upon him the ‘moral obligation’ of the British to ensure the welfare and protection of these ‘primitive and helpless people’. He also suggested ‘that some extra-constitutional arrangement for the protection of the aboriginal population should be agreed and included in the Treaty between the new India and His Majesty’s Government’.⁴⁵ In his response, however, Wavell did not foresee future British governments ‘spending large sums or making great efforts for the backward tribes’. Additionally, Indian governments would be unwilling to accept ‘British or international interference or supervision’.⁴⁶

As the war ended and following the victory of the Labour Party in the British general election in 1945, Clement Atlee swept to power as the new prime minister, replacing his War Cabinet colleague, the staunchly conservative Winston Churchill. These developments certainly accelerated the transfer

⁴² Reginald Coupland, *The future of India: third part of a report on the constitutional problem in India submitted to the warden and fellows of the Nuffield College, Oxford* (London: Oxford University Press, 1943). Cited in File L/P and J/7/6787, pp. 268–69, India Office Records, British Library (London) (hereafter IOR).

⁴³ *Ibid.*

⁴⁴ 28 September 1944, Amery to Wavell, Pol. 6301/1944, L/P and J/7/6787, p. 178, IOR.

⁴⁵ Quoted from 10 October 1945, Wavell to Governors, Pol. 9980/1945, L/P and J/7/6787, pp. 41–43, IOR.

⁴⁶ 10 October 1944, Wavell to Amery, Pol. 7378/1944, L/P and J/7/6787, IOR.

of power proceedings which had repercussions on the resolution of the Tribal Question in India.

In the last quarter of 1945, Pethick-Lawrence (Amery's successor) dropped his predecessor's proposals as thoroughly impractical. Instead, he asked Wavell's advice on the possibility of effective supervision of tribal areas from the centre through an adviser for the aboriginal tribes.⁴⁷ Pethick-Lawrence favoured having a three-member board (comprising an anthropologist, an administrator, and a missionary) and suggested that a proposal similar to Articles 73 and 74 of the San Francisco Charter⁴⁸ might be incorporated in the new Constitution as part of a declaration of minority rights. This board 'would then be the agency through which the new Indian Government could honour the obligations embodied in the declaration'.⁴⁹

In order to ascertain views on Lawrence's proposals from various provinces, Wavell wrote to his governors. This letter is an important document for it encapsulates the two opposite views—anthropologists versus nationalists—about the future of backward tribes. As the Crown's representative in India, Wavell wrote,

There seems to be two main schools of thought about the backward tribes. The anthropologist believes that the application to them of ordinary administrative methods destroys their primitive civilization without substituting anything for it; and that the right policy is to build very gradually on the existing tribal practices and customs so that the backward tribes may be brought to a level at which they can deal and compete with more advanced people without risk of exploitation and degradation. The critics of this point of view say that the anthropologists wish to isolate the aboriginals and to keep like museum specimens in special reserves. But this criticism seems to miss the main point of the argument, which is that the ordinary methods of education, agricultural improvement, and the like are unsuited to backward people who quickly lose such advantages and virtues as they now possess and acquire nothing new in their place. The other school of thought tends to regard the backward tribes simply as parts of the poorer elements of the population, on much the same level as the Scheduled Castes, and to hold that the right solution is to let them take their chance in a competitive world. I am inclined to accept the view of the anthropologist.⁵⁰

Despite his endorsement of the anthropologists' point of view, Wavell was a political realist who foresaw that the chances of instituting a centralized supervisory mechanism were slim. Foreseeing 'administrative objection to complete

⁴⁷ 8 November 1944, Elwin to Francis, Pol. 9169/1945, pp. 103–05 and Hubback's Note on Verrier Elwin's Orissa Report, pp. 45–46, L/P and J/7/6787, IOR.

⁴⁸ The Charter of the United Nations signed at San Francisco on 26 June 1945 is the constituent treaty of the United Nations. It is also one of the constitutional texts of the International Court of Justice. Articles 73 and 74 of the Charter consists of a 'Declaration regarding Non-Self-Governing Territories'.

⁴⁹ 10 October 1945, Wavell to Governors, Pol. 9980/1945, L/P and J/7/6787, pp. 41–43, IOR.

⁵⁰ *Ibid.*

centralization', he argued that the balance lay in an arrangement where 'the Provincial Governments retained their administrative responsibility (and) the central government gave special grants, undertook inspections and received periodical reports'. Wavell pointed out the recommendation of the Sapru Committee⁵¹—that the predominantly tribal inhabited areas 'should be under the control of a Commissioner who is selected for his special knowledge of, and sympathy for, the tribal people'. Thus, there was already a shift away from the earlier governor-centric paradigm of scheduling in late colonial administrative discourse. Rather, attempts were being made towards generating better coordination between provincial and central governments on the question of tribal welfare.

Meanwhile, in their responses, the provincial governors almost unanimously opposed the inclusion of a missionary as the third member of the proposed central board since 'it would arouse the suspicions of over-sensitive Indians'. Instead, they suggested that the third member be chosen on the basis of 'experience and knowledge of the Backward Tribes', thereby allowing 'the missionaries an equal chance of being selected along with other specialists such as doctors and agricultural experts'.⁵² On the matter of having a central advisory authority, however, the governors were a divided house. While the provincial governors of Bombay, Madras, and Bengal favoured the idea, others were emphatically opposed to it on the grounds that advice and supervision from the centre would be disadvantageous to provincial autonomy. In view of the complicated nature of the political situation, however, the discussion regarding the establishment of a central supervisory board for the tribal areas was ultimately unceremoniously dropped.

The above developments set out some very interesting genealogies for constitutional mandates still prevalent in India. Thus, the Sapru Committee's recommendation for a commissioner with special knowledge of and sympathy for the tribes was instituted through Article 338 of the Indian Constitution as the Office of the Commissioner of Scheduled Castes and Tribes who toured tribal areas around the year and submitted annual reports to the Government of India on their condition.⁵³ Wavell's idea of financial grants from the centre for the purpose of tribal welfare took the form of Article 275 of the Indian Constitution.⁵⁴ Another area of continuity in the discourse on tribes was the

⁵¹ See Tej Bahadur Sapru, M. R. Jayakar, N. Gopalaswamy Ayyangar and Jagdish Prasad, *Constitutional proposals of the Sapru Committee* (Moradabad: Secretary Sapru Committee, 1945), pp. 235–240, lxix. The proposal to appoint a European special officer 'sympathetic' towards the aborigines was part and parcel of the anthropologists' contribution to the discourse of scheduling. By the mid-1940s, such ideas were being widely used by Indians themselves, of course with a new designation (commissioner) and envisioning Indians (not Europeans) manning such constitutional mandates.

⁵² Minute on the subject of 'Backward Tribes', L/P and J/7/6787, N. S. 2, IOR.

⁵³ This single member office was transformed into the seven-member National Commission for Scheduled Castes and Scheduled Tribes through the Constitution (Sixty-Fifth Amendment) Act, 1990.

⁵⁴ This was first proposed by the Indian Statutory Commission headed by Sir John Simon. See paragraphs 132–133 in *Report of the Indian Statutory Commission. Volume II* (Calcutta: Central Publication Branch, 1930), pp. 110–111.

argument that they could not speak for themselves and thus inherently lacked the ability to voice their interests in the political domain. This assumption, commonsensical in the 1930s and 1940s, was largely shared both by the Congress nationalists and the British ruling elite.

A couple of points need to be made about the nationalist position vis-à-vis the Tribal Question. Leading scholars like David Hardiman agree that Gandhi's treatment of the Adivasi issues was 'marginal to the movement as a whole'.⁵⁵ In fact, Amritlal Vithaldas Thakkar was the only exception to this state of general neglect. Thakkar was a trained engineer who left a high administrative position in the Bombay municipality to become a full-time professional social worker and life member of the Servants of India Society, established by Gopal Krishna Gokhale in 1905. Since encountering the deplorable conditions of Bhils in the famine-struck district of Panch Mahal in 1919, Thakkar kept up a sustained involvement with tribal issues. He decided to start welfare work among the Bhil tribes and formed the Bhil Seva Mandal, which was, perhaps, the first nationalist philanthropic organization geared towards socio-economic and cultural 'uplift' of the aboriginal tribes. In time, he developed a genuine interest in their future political and constitutional status. As the chief nationalist ideologue on the Tribal Question, Thakkar played a stellar role in public debates with leading figures of the day.⁵⁶ It was Thakkar's understanding of the tribal predicament and his critique of the colonial policy of exclusion and partial exclusion that the Congress nationalists were to adopt by the mid-1930s.

The All-India Excluded and Partially Excluded Areas Association and constitutional deliberations on the future administration of tribal areas

It was the British Cabinet Mission statement of 16 May 1946 that set in place the final theatre of constitutional deliberations for the predominantly tribal areas of India. According to paragraphs 19(iv) and 20 of the Cabinet Mission proposals, an advisory committee on the 'rights of citizens, Minorities and Tribal and Excluded Areas' would be constituted. It would contain full representation of the interested parties and would 'report to the Union Constituent Assembly upon the list of fundamental rights, the clauses for the protection of minorities, and a scheme for the administration of the tribal and excluded areas and to advise whether these rights should be incorporated in the provinces, group, or Union Constitution'.⁵⁷

Despite some novel inputs, the Cabinet Mission statement, by and large, replicated the protective framework of exclusion and partial exclusion enshrined in the Government of India Act, 1935. Furthermore, as a result of

⁵⁵ David Hardiman, *Gandhi: in his time and ours* (Delhi: Permanent Black, 2003), p. 147.

⁵⁶ For details, see Saagar Tewari, 'Debating tribe and nation: Hutton, Thakkar, Ambedkar and Elwin (1920s–1940s)'. Nehru Memorial Museum and Library (hereafter NMML), Occasional paper/history and society, n.s., 86, 2017.

⁵⁷ K. M. Munshi (ed.), *Indian constitutional documents. Vol. II: Munshi papers* (Bombay: BVB, 1967), p. 30.

the spectacular performances by the Congress and Muslim League in the 1946 elections, the Mission recognized them as the only 'two main political parties' with whom the British would conduct meaningful negotiations.⁵⁸ By omitting all organized political groups not allied with either the Congress or the Muslim League, the possible resolution of the Tribal Question became heavily loaded. The contentious politics of scheduling had now entered a crucial phase as the British, who had put their weight behind the anthropologists' view of providing protection through territorial ring-fencing of predominantly tribal areas, were on their way out. Hence, a territorial solution or *scheduling* seemed highly unlikely, given the Congress's unflinching opposition to this well-established colonial policy.

At this juncture, the nationalists saw the implications clearly and redoubled their efforts to eliminate the instrument of scheduling from the statute books. The All India Excluded and Partially Excluded Areas Association (AIEPEAA) opposed any attempt 'to make this invidious distinction a permanent feature of the future constitution of India'.⁵⁹ It argued instead for the abolition of these barriers so that 'the so called aboriginal races will in common with their other countrymen work out the destiny of a greater and happier India'.⁶⁰

Central to the AIEPEAA's agenda was its opposition to the British administrative policy for tribal areas. Its central mandate was to delegitimize and repeal sections 91 and 92 of the Government of India Act, 1935 wherein large parts of British India were declared 'excluded' and 'partially excluded' areas.⁶¹ Until the Order in Council was issued in 1936, the Congress nationalists had, by and large, not sufficiently engaged with the Tribal Question, choosing instead to focus on issues of representation of the Muslims and the Depressed Classes. However, the carving away of large tracts from the purview of a reformed constitution jolted the Congress. The nationalists now began organizing a sustained opposition to this extra-constitutional framework, arguing that it was motivated by the British policy of 'divide and rule'. Resolutions against exclusion and partial exclusion were passed at the Faizpur (1936) and Haripura (1938) sessions of the Indian National Congress, and attempts were made to fashion an organized resistance to these policies.

⁵⁸ *Statement by the Cabinet Mission and his excellency the viceroy cmd. 6821* (London: His Majesty's Stationery Office, May 1946), p. 2.

⁵⁹ 20 September 1946, File No. G-59, 1947, AICC Papers, NMML (New Delhi), p. 49.

⁶⁰ *Ibid.*

⁶¹ 'The Government of India (Excluded and Partially Excluded Areas) Order', in *Orders in Council under the Government of India Act, 1935* (Delhi: Manager of Publications, 1937), pp. 24–26. The said Order in Council declared eight excluded and 28 partially excluded areas in which approximately 13 million members of aboriginal tribes resided. In excluded areas, there were to be no elections nor representatives sent to legislative bodies, while in partially excluded areas, elections would take place, but laws would not automatically apply to these areas. The governors had a 'special responsibility' vis-à-vis protection of the aboriginal tribes' interests. Although the notification was a 'closed' order in the sense that no new areas could be added to the list, only the British Parliament could de-schedule an area already on the list. Thus, it became the sole arbiter of the fate of large swathes of territories and millions of tribals living in the Indian subcontinent. Such 'exclusion' irked the nationalists and they now undertook to oppose this policy by all constitutional and political means.

Throughout the 1930s and 1940s, the AIEPEAA became the front organization of the Congress in organizing propaganda and mobilization campaigns in its opposition to scheduling. The stated objective of the association, as per its constitution, was:

[S]afeguarding the political, economic and social interests of the residents of the Excluded and Partially Excluded Areas all over India, by peaceful and legitimate means and the ultimate merging of these Areas into normally administered Areas, so as to enjoy the same democratic rights as are enjoyed by the latter.⁶²

The de facto leadership of the AIEPEAA was in the hands of Pandurangi Kodanda Ramaiah with its headquarters situated at Rajahmundry in the Madras presidency.⁶³ Since 1922, Ramaiah had been a member of the Servants of India Society. Although there is a relative paucity of material on this association, such archival material as we possess, reveals an interesting picture of the strategies used by the Congress to mobilize support for its position in the tribal regions.⁶⁴

As the politics of scheduling gravitated from the margins to the centre stage, events moved towards a constitutional settlement of representational claims in the end-game of colonial rule. A general body meeting of the AIEPEAA held at Rajahmundry on 12 and 13 September 1946 decided that the association would relocate its office temporarily to Delhi during the sessions of the Constituent Assembly so as to keep track of the unfolding developments.⁶⁵

On 20 January 1947, the AIEPEAA organized a conference in Delhi. Devendranath Samanta, an Adivasi Congress member of the Constituent Assembly from Bihar, delivered the presidential address. As chairman of the Reception Committee, Kodanda Ramaiah made an emotive appeal to members of the Constituent Assembly, 'in the name of humanity, to treat the tribal people on the same footing as others and thereby avoid the creation of another minority...problem'.⁶⁶ The conference was inaugurated by the Congress president, J. B. Kripalani, who condemned the British policy of putting tribal areas under special administrative regimes despite their 'rich democratic tradition and experience of Panchayati Raj'.⁶⁷ Although the British advanced

⁶² Pamphlet of the All India Excluded and Partially Excluded Areas Association, Rajahmundry, 1938. Published by P. Kodanda Ramaiah, General Secretary, P/T/2845, p. 1, IOR.

⁶³ The 1934 report by P. Kodanda Ramaiah (typed as a mimeograph in 1937) in the AICC papers, however, takes the name of this association with its office at Swaraj Ashram, Polavaram via Kovvur, M. S. M. Railway. It is likely that the association was formed earlier and this same body was expanded after the Haripura Session of the AICC in February 1938, F. No. 10-Miscellaneous, 1938, AICC Papers, NMML.

⁶⁴ Among other issues, the history of the AIEPEAA will be outlined in greater detail in my book: Tewari, *Islands against civilization* (forthcoming).

⁶⁵ 20 September 1946, File No. G-59, 1947, AICC Papers, NMML.

⁶⁶ 'Excluded areas abolition: Delhi conference plea', *The Times of India*, 20 January 1947, p. 9.

⁶⁷ 20 January 1947, Information Department, Pol. 10329/1947, L/PJ/10/31, IOR.

'anthropological' reasons for it, Kriplani argued that it was in pursuance of their age-old policy of 'divide and rule'. In contrast, the Congress president said that his organization 'stood for the abolition of excluded and semi-excluded areas. What it wanted was one administration for the country.'

Four days after this conference, the Constituent Assembly decided to elect an Advisory Committee as per the Cabinet Mission plan. This Committee went on to issue a number of pamphlets on the subject of excluded and partially excluded areas. These laid down the paradigm within which the nationalists sought to resolve the problem of the backward tribes in independent India.⁶⁸

In these pamphlets, the Advisory Committee highlighted the issue of representational democracy for tribal areas. This issue emerged as the primary fault line, which distinguished the nationalist position from those belonging to the anthropological school of thought earlier marked out by Viceroy Wavell. The Committee launched a frontal attack on the advocates of tribal isolation and protection, especially Verrier Elwin, whose work was characterized as seeking to 'achieve their [aboriginals] freedom and happiness by shutting them off'.⁶⁹ The Committee gave greater credence to the views of B. S. Guha, an anthropologist whose position approximated that of the Congress. Guha held that the main considerations for tribal areas should be the preservation of tribal life and authority. Any future policy should also facilitate the participation and gradual integration of aboriginal tribes into the general life of the country. In its final take on the policy of isolation, the Advisory Committee remarked that the proposals for national parks or isolation were based on an overstatement of the case for safeguarding the interests of the aboriginals. As the country was moving towards independence, this was irrelevant and did not constitute 'practical politics'. Moreover, the isolation line could not be representative of the aspiration of the tribals themselves as they did not understand its implications.⁷⁰

At its meeting on 27 February 1947, the Advisory Committee set up three sub-committees to consider the future status of tribal, excluded, and partially excluded areas in the provinces of Assam, non-Assam areas, and the North-West Frontier Province and Baluchistan respectively. These sub-committees were given three months to tour their respective areas and submit their recommendations. They could also co-opt members from the tribal areas. However, the sudden announcement of the Partition Plan by Lord Mountbatten, the new viceroy, on 3 June 1947 upset all previous calculations. With its acceptance by the Congress and the Muslim League, the North-West Frontier Tribal Areas sub-committee was no longer required to undertake its task.

Given the complexity of their mandate and the rather inaccessible terrain that had to be traversed while gathering evidence, the other two sub-

⁶⁸ *Constituent Assembly of India, Advisory Committee (tribal and excluded areas), excluded and partially excluded areas—I and II* (New Delhi: Government of India Press, 1948).

⁶⁹ *Constituent Assembly of India, Advisory Committee (tribal and excluded areas), excluded and partially excluded areas—II* (New Delhi: Government of India Press, 1948), p. 19.

⁷⁰ *Ibid.*, p. 21.

committees overshot their deadlines. The Assam sub-committee submitted its report on 28 July 1947. The other sub-committee submitted its report in two instalments: the first interim report relating to Madras, Bombay, Bengal, Central Provinces, and Orissa in August 1947; and the second report dealing with Bihar, United Provinces, and Punjab in September 1947.

The reports of these two sub-committees form the basis for the enactment of the Fifth and Sixth Schedules. The sub-committee on non-Assam areas was headed by A. V. Thakkar and comprised Jaipal Singh Munda, Devendra Nath Samanta, Phul Bhanu Shah, Jagjivan Ram, Profulla Chandra Ghosh, and Raj Krushna Bose. Interestingly, Kodanda Ramaiah appears among the co-opted members of this sub-committee, with the other such members being Khetramani Panda, Sadashiv Tripathi, Sneha Kumar Chakma, and Dumber Singh Gurung. The secretary of the sub-committee was an Indian Civil Service (ICS) officer, R. K. Ramdhyani. Jaipal Singh Munda and Devendra Nath Samanta were the only two Adivasi members of the Constituent Assembly on this sub-committee, the latter representing Congress from Bihar. Apart from Jaipal Singh Munda, the rest of the sub-committee were either Congressmen or sympathized with its political positions.

The sub-committee's interim report opposed the provisions of partial exclusion.⁷¹ It argued that ever since the system was introduced in 1936, the representatives of partially excluded areas had not succeeded in bringing 'sufficient pressure and influence to bear on the Ministry'. Further, some partially excluded areas were but small pockets in large districts, as a result of which their interests were subordinated. The sub-committee also held that the social system of tribal people differed from those of plains areas. The delineation of these differences was taken almost entirely from colonial discourse. Thus, tribal laws of inheritance, marriage, and divorce were seen as distinct, a difference compounded by the fact that in several areas people were 'too primitive to be able to understand or make use of the complicated procedure and law of the civil, criminal and revenue courts'. Consequently, a simplified system of justice was deemed necessary. Further, land was seen as the 'only thing left to the aboriginal' as they did not follow non-agricultural professions, and the 'grant of the power of alienation' would result in their 'gradual expropriation'. Thus, the report concluded that in certain areas, laws of the provincial legislature (which were likely to be based on the 'needs of the majority') should not apply automatically, at least in respect of certain subjects. Such areas were christened 'Scheduled Areas'.

In the colonial system of exclusion and partial exclusion, the governor occupied a central position, with a 'special responsibility' that empowered him to over-rule any legislation deemed inimical to tribal interests. The sub-committee remarked that in independent India, such discretionary powers would be 'undemocratic'. As an alternative mechanism it recommended the constitution of a provincial body named the 'Tribes Advisory Council' (TAC),

⁷¹ *Interim Report of the Constituent Assembly of India, Excluded and Partially Excluded Areas (other than Assam) Sub-Committee* (New Delhi: Government of India Press, 1947). The next few paragraphs are based on this source, especially pp. 11, 14, 16 and 17.

whose primary function would be to review the suitability of laws passed by the provincial legislature on 'special subjects' such as '(1) social matters, (2) occupation of land including tenancy laws, allotment of land and setting apart of land for village purposes, and (3) village management including the establishment of village panchayats'. The Council was to have veto rights on these matters. On other subjects, the provincial government could withhold or modify legislation on the advice of the TAC.

Since funds were a major anxiety for Scheduled Areas, the Advisory Council recommended a separate statement in the provincial budget showing the revenues derived from and expenditure incurred in these areas. In the states of Central Provinces and Orissa and Bihar, there was to be a separate minister in charge of the tribal areas, ideally a tribal himself. Further, adequate representation should be given to tribals in government services at the level of forest guards, constables, excise peons, and clerks. It was argued that such provisions would give them necessary confidence and status. The report also spoke of encouraging tribal panchayats, temperance propaganda, checking moneylending activities, and eliminating shifting cultivation.

Soon after this report was submitted, in August 1947, the two states of India and Pakistan came into being. With this development, the Government of India Act, 1935 and its sections 91 and 92 relating to excluded and partially excluded areas became null and void. However, scheduling soon received a fresh lease of life, when the Constitution of India adapted the protective provisions of these sections to meet the political exigencies facing the fledgling Indian nation-state. Before discussing the Constituent Assembly deliberations, it will be useful to survey the political landscape of the Tribal Question in India between 1945–1950.

Congress versus communists: Responses to the emerging tribal political consciousness

As highlighted earlier, both British and Indian participants in the debate on the Tribal Question concurred that they had to step into the discourse on behalf of tribal people because the tribes were unable to speak for themselves.⁷² In the next two sections, however, I shall try to show how we also need to consider the role played by tribal agency in the period of the transfer of power. Such dynamics were played out in multiple theatres and indicate an intense power struggle wherein the legitimacy of the Congress in representing the aspirations of the entire country (including its tribal populace) was being seriously challenged. To understand these pressures, it is necessary to shift our gaze outside the Constituent Assembly.

Undoubtedly, politics in India during 1945–1947 stood on the cusp of a sea change. In the preceding decade, the social base of all major political formations had shifted rapidly, especially since the introduction of provincial autonomy and the establishment of Congress ministries. In the 1937 (and 1946)

⁷² See Prathama Banerjee, 'Writing the Adivasi: some historiographical notes', *Indian Economic and Social History Review*, Vol. 53, no. 1, 2016, pp. 131–153.

elections, only provincial subjects who met certain financial (land revenue, *chowkidari* tax, etc.) or educational qualifications were included in the voters' roster. As a result, the franchise was restricted to only a tenth (later, one-seventh) of the British Indian population and only about half of this population actually cast its vote.⁷³ This gave a definite elitist character to all elections conducted under the Government of India Act, 1935 until Indian Independence. The string of impressive electoral performances by the Indian National Congress was related to the fact that the powerful landlord sector had put its weight behind them. Being the most organized and popular political force, the Congress leadership was accurately viewed as most likely to replace the British and emerge as the next ruling elite. However, its top leadership had already committed itself to universal adult franchise upon independence. They were well aware that their hold on state power would be tenuous once every adult Indian began voting for a party of their choice. This underlined an imperative to find new allies for continued electoral success.⁷⁴

Since the 1930s, the communist takeover of the Kisan Sabha movement established them as the chief opponents of the Congress, who would try to capture political power once British rule ended. The top Congress leadership was aware of this challenge and of the consequent need to expand their social base. They reviled the communists as 'violent, lawless and anti-Indian' and sought to present themselves, by contrast, as 'committed, patient advocates of gradual, peaceful reform who only needed more time to bring positive changes'.⁷⁵

In the period 1945–1950, parallel to the process of constitutional deliberations, a number of political movements and insurrections erupted in predominantly tribal areas of the sub-continent. Such movements can be divided into two categories: those occurring in British India (the Warli revolt in Bombay and the Tebhaga movement in Bengal) and those in the princely states (the Telangana revolt in Hyderabad and political agitations in Orissa). A crucial feature of these movements was that the majority of them were led by communists.⁷⁶ In what follows I will provide an outline of some crucial moments of struggle.

Thus, rural Bengal in 1946–1947 was the scene of the Tebhaga movement, an intense communist-led struggle by sharecroppers (*bargadars*) to reduce from one-half to one-third the rent they paid to the *jotedars*, a class of rich farmers.⁷⁷ Under the *bargadari* system of cultivation in Bengal, the landowning classes such as the zamindars, *talukdars*, and rich *jotedars* used the services

⁷³ 'The Indian election—1946', *The World Today*, Vol. 2, no. 4, 1946, pp. 167–175. For a full-length study on the 1946 elections but with a focus upon the partition of India, see Sho Kuwajima, *Muslims, nationalism and the partition* (New Delhi: Manohar, 1998).

⁷⁴ Deepak Pandey, 'Congress-Muslim League relations 1937–39: "the parting of the ways"', *Modern Asian Studies*, Vol. 12, no. 4, 1978, pp. 629–654.

⁷⁵ Leslie J. Calman, 'Congress confronts communism: Thana district, 1945–47', *Modern Asian Studies*, Vol. 21, no. 2, 1987, p. 330.

⁷⁶ See S. R. Chowdhuri, *Leftism in India, 1917–1947* (Delhi: Sage, 2017).

⁷⁷ For an interesting account of the movement, see D. N. Dhanagare, *Peasant movements in India: 1920–1950* (Delhi: Oxford University Press, 1983), Chapter 'The Tebhaga movement in Bengal, 1946–47', pp. 155–179.

of tribals such as the Santhals for reclaiming forest land for agriculture. However, once the tribals were turned into peasants, they were quickly ousted from the land that their labour had reclaimed.⁷⁸ Sensing an opportunity to expand their populist base in the Bengal region, the communists had been working ceaselessly there since the 1920s. By the 1930s, they had effectively infiltrated and hijacked the leadership of the Kisan Sabha platform to swell their ranks.

A stronghold of the movement was Mymensingh district in East Bengal. In the northern Susang region of the district, the Hajong tribals turned tenants paid a *tanka* (a fixed quantity of their crops) as produce-rent to their landlords. The Susang region was a 'partially excluded area' and bordered Assam, which provided the communists with an ideal setting for guerrilla activities and agitation. As part of the movement, the tribals, led by the communists, held massive demonstrations and unilaterally defied landlords and *jotedars* by harvesting crops. In January 1947, post offices and police stations were attacked in Susang. The Hajong tribals openly raised the banner of revolt, encouraged others to join them, and roamed the area armed with bows and arrows, and even guns. Similar clashes were reported from Dinajpur and Jalpaiguri. Large number of Santhal and Oraon tribals also participated in these struggles. However, despite its populist character and militant peasant action, the largely spontaneous character of the Tebhaga movement in these tribal areas could not be transformed into extensive fighting or large-scale peasant violence.

The pinnacle of the communist-led peasant movements was the Telangana struggle (1946–1951) in the princely state of Hyderabad. The movement underwent several phases which have been analysed by scholars as well as participants.⁷⁹ Shortly after the success of 'Operation Polo', representatives of the Indian state took administrative charge of the erstwhile nizam's state-structure throughout Hyderabad. What followed was a massive clampdown on the communists, during which the Indian Army committed several excesses.⁸⁰ Their raids decimated the communist squads and thousands were arrested. The squads were forced to either give up or run away as 'in the plains there was no place to hide'.⁸¹ Thus, the Telangana movement entered its next phase as

⁷⁸ Ibid., p. 159.

⁷⁹ For an analytical study of the movement, see D. N. Dhanagare, 'Social origins of the peasant insurrection in Telangana (1946–51)', *Contributions to Indian Sociology*, n.s., no. 8, 1974, pp. 109–134; Akhil Gupta, 'Revolution in Telangana: part I & II', *South Asia Bulletin*, Vol. IV, no. 1 and 2, 1984. For an insider's account, see Puchalapalli Sundarayya, *Telangana people's struggle and its lessons* (Calcutta: CPI (M), 1972); Puchalapalli Sundarayya, *An autobiography* (Delhi: National Book Trust, 2009).

⁸⁰ Sunil Purushotham, 'Internal violence: the "police action" in Hyderabad', *Comparative Studies in Society and History*, Vol. 57, no. 2, 2015, pp. 435–466. Recently Purushotham has published a major study which has shed important light on the Indian state's approach and strategy to deal with the communist insurgents entrenched in the tribal belt of Hyderabad. See Sunil Purushotham, *From Raj to republic: sovereignty, violence and democracy in India* (Stanford: Stanford University Press, 2021), Chapters 5 and 6, pp. 182–246.

⁸¹ Akhil Gupta, 'Revolution in Telangana 1946–1951 (Part One)', *Comparative Studies of South Asia, Africa and the Middle East*, Vol. IV, no. 1, 1984, p. 19.

the communists expanded into the forested tracts. Undoubtedly, their entry into these forested regions provided a fresh lease of life to the Telengana movement. They dug deep in the jungles' terrain and, helped by their tribal supporters, conducted guerrilla warfare against the Indian armed forces. The Telangana struggle continued to cast a cloud over the people who had the responsibility for devising the future constitutional fabric which would protect and develop the Indian tribal population.

A third important theatre of struggle was the Thana district of Bombay presidency,⁸² where in 1944 the Warli tribal community went on a wage strike at the instigation of K. J. Save, a government servant. However, the attempt failed as B. G. Kher⁸³ and the Adivasi Seva Mandal⁸⁴ managed to convince the strikers to return to work. Thus, the Congressmen and its tribal welfare wing worked to allay the fears of the populace in Warli. Nevertheless, the education of tribals in distinctly leftist modes of political activity had begun. In December 1944, Shamrao and Godavari Parulekar began organizing the tribals to end the practices of forced and bonded labour. Shortly after the 1946 elections, the control of Bombay administration passed into the hands of a Congress government headed by B.G. Kher with Morarji Desai as the home minister. According to Leslie Calman, the Kher Ministry was more opposed to the communist organization than the British.

When the communist-controlled Kisan Sabha started mobilizing Warlis in the grass cutting season of 1946, another crisis unfolded. On 14 November, the Bombay government declared a state of emergency in Thana and by early January had dispatched a company of the Maratha Light Infantry to Dahanu. However, public outcry led to the withdrawal of the force. The cycle of violence continued, in the midst of which Morarji Desai said that 'anything which helps the communists in their nefarious activities will not be tolerated'. Calman has argued that the evidence suggests that the primary concern of the government was putting a stop to the communist influence. By April 1947, the rebellion was quelled. In her evaluation of the Warli movement, Calman wrote that '(T)he true agenda of the 1945–47 movement in Thana, and the Congress's response to it, were not the struggle for Adivasi uplift but rather the broader questions of the way in which change should occur, who should initiate it, and which classes and parties should benefit from it as Indian independence neared.'⁸⁵

I would argue that Calman's assessment seems valid, even if we extend her analysis to include all three communist-led movements. Barring the case of Bengal (which had a Krishak Praja Party government), both the Congress governments at Hyderabad (after the 'police action') and Bombay saw to it that the communist-led protest movements among tribals were brutally crushed. It has

⁸² This account is solely based on Leslie J. Calman, 'Congress confronts communism: Thana district, 1945–47', *Modern Asian Studies*, Vol. 21, no. 2, 1987, pp. 329–348.

⁸³ The first Indian premier of Bombay Province, a local Congress stalwart who took an active interest in 'uplift' work with tribal communities.

⁸⁴ A nationalist-oriented tribal welfare organization of Bombay Province. During this phase, the Adivasi Seva Mandal worked as a de facto state agency in pacifying the area.

⁸⁵ Calman, 'Congress confronts communism', p. 329.

been established that the landlords constituted a formidable social base for the Indian National Congress. In areas where tribals constituted a predominant section of the population, there was an irreconcilable conflict of interest between them and the landlords. Land alienation had been the single biggest issue of protectionist discourse during the last three decades of colonial rule.⁸⁶ While Congress only paid lip service to ensuring that land did not pass from tribals to non-tribals in these areas, the communists made it a central issue.⁸⁷ Despite their calls for ensuring 'social justice' for the tribals, in each of these cases of conflict, the Congress leadership ultimately sided with the local interest groups (landlords, etc.) which supported them both materially and electorally.

My main concern in recounting these instances of disturbances and revolts in predominantly tribal areas is to establish a link between them, particularly those notified under the Fifth Schedule, and the constitution-making process. The communist-led movements in Thana district and Hyderabad were giving vent to very real political demands. These campaigns were not separatist in nature in the manner of the two-nation theory advanced by Mohammad Ali Jinnah and the All-India Muslim League. However, they did challenge the authority of the post-colonial Indian nation-state before the CA had finalized the draft constitution in November 1949. The Congress versus communist showdown, often marked by violence, was a significant part of the political climate which galvanized a strategic shift in the Congress's stance. Each of these episodes deserves individual full-length studies. Their respective roles in affecting the final outlines of the discourse on tribes in independent India awaits assessment. Nevertheless, the challenges posed by the ideologically driven communists were set to pale before an ethnic-cum-regional autonomy movement unprecedented in twentieth-century India. No analysis of tribal agency in late colonial India can be complete without an engagement with the intensive political mobilization campaigns conducted by the Adivasi Mahasabha presided over by Jaipal Singh Munda.

A separate province: Jaipal Singh Munda, the Adivasi Mahasabha, and modern associational politics among Adivasis

There are, broadly speaking, three strands of tribal political movements in the colonial period. Most studies have been conducted on, first, millenarian movements⁸⁸ and, secondly, those led by the Congress⁸⁹ and

⁸⁶ V. Raghavaiah, 'Background of tribal struggles in India', in A. R. Desai (ed.), *Peasant struggles in India* (New Delhi: Oxford University Press, 1979).

⁸⁷ D. N. Dhanagare, 'The politics of survival: peasant organisations and the left-wing in India, 1925-46', *Sociological Bulletin*, Vol. 24, no. 1, 1975, pp. 29-54.

⁸⁸ Stephen Fuchs, *Godmen on the warpath: a study of messianic movements in India* (New Delhi: Munshiram Manoharlal, 1992).

⁸⁹ The many published works of the late Professor Biswamoy Pati were focused on the Congress-tribal interaction in Orissa. For two representative examples, see Biswamoy Pati, *Resisting domination: peasants, tribals and the national movement in Orissa, 1920-50* (New Delhi: Manohar, 1993) and Biswamoy Pati, 'Storm over Malkangiri: a note on Laxman Naiko's revolt (1942)', *Social Scientist*, Vol. 15, no. 8/9, Aug-Sep 1987, pp. 47-66.

communists.⁹⁰ However, there was a third stream of tribal movements guided by modern associational politics and based on the articulation of an Adivasi identity that has been missed by the critical lenses of historical scholarship.⁹¹

The distinctiveness of this movement vis-à-vis the communist-led insurrections in tribal areas is worth underlining. The Communist Party of India under the sway of the B. T. Ranadive-line theoretically viewed the Tribal Question as one of 'peasant' unrest which required organization, mobilization, and violent resistance.⁹² They harped on the need to overthrow the Indian state but never provided an organic cultural idiom for tribal identity. Such a limited approach was, perhaps, to proscribe a wider dissemination of their politics.⁹³ Another weakness in the Left's approach towards the Tribal Question was its overreliance on 'class' analysis. Hence, while the communist challenge in predominantly tribal areas raised the meaningful demands of tribals, the communists also exemplified the limitations of a politics based purely on economic considerations but lacking any powerful emotive appeal for autonomy or self-determination. In this respect, the development of an Adivasi identity and its affective dimensions under the aegis of the Adivasi Mahasabha heralded a new era of democratic power politics. Under the charismatic leadership of Jaipal Singh Munda, the Mahasabha went on to play an important role in the regional power politics of eastern and central India. By foregrounding the context for the rise of the Adivasi Mahasabha, of which Jaipal Singh Munda became the *Marang Gomke* (Supreme Leader), this article is but a small, early step in chronicling a biography of the early phase of the oldest tribal autonomy movement in India, that is, the demand for a separate tribal state of Jharkhand.

The Birsa Ulgulan at the turn of the twentieth century was a millenarian movement led by a religious cum messianic figure. While the British successfully suppressed the uprising, culminating in the death of Birsa Munda, its post-facto analysis paved the way for the institution of protective land legislation like the Chotanagpur Tenancy Act, 1908 which continues to provide the fulcrum of tribal mobilization campaigns in the region even today. Another important development was the sprouting of associations which began articulating tribal interests and demands. As highlighted earlier, both the British and the nationalists held that, in the absence of an educated class, the aboriginal tribes were characteristically silent and had to be spoken for. The evidence for tribal voices is, however, not altogether absent, for a new middle class was emerging within them which was politically conscious and gave expression to their interests in remarkably new ways. Some of these voices can be heard in the participation of two tribal representatives—Ignes Beck and Boniface Lakra, two tribal Members of the Legislative Assembly (MLAs) of

⁹⁰ See footnoted references of the previous section.

⁹¹ Unlike Birsa Munda, on whom see K. S. Singh, *Birsa Munda and his movement 1872-1901: a study of a millenarian movement in Chotanagpur* (Calcutta: Seagull, 2002).

⁹² Personal communication with Professor Bhagwan Josh.

⁹³ Personal communication with Dr Rakesh Ankit.

the 'Coalition Aborigines'—in a debate conducted in the Bihar Legislative Council on 3 April 1939.⁹⁴

The occasion of these speeches was the debate initiated by the prime minister of Bihar, Shri Krishna Sinha, demanding the complete repeal of provisions regarding excluded and partially excluded areas from the Government of India Act, 1935. This was in keeping with the larger Congress position that no administrative distinction should be made between tribal and non-tribal areas. A long debate followed in which Lakra and Beck expressed their 'lack of confidence in the present Bihar Government'. Following as it did close on the heels of a major electoral success in the District Board elections in Ranchi and Singhbhum by the recently formed Adivasi Mahasabha, the timing of their speeches was quite significant.

Beck and Lakra wanted 'a career of "self-determination" for Chotanagpur'.⁹⁵ Lakra minced no words in criticizing the Congress government. He said that while the Congress paid lip service to the idea of giving special protection to minorities, in reality, its attitude had been 'rather cold, unkind and unsympathetic towards the aborigines'. Where there was a clash of interest between aboriginals and non-aboriginals, the Ministry was invariably swayed in favour of the majority. Before ending his speech, he warned the Congress Ministry that if it was unfavourable towards them and continued to be 'hostile to our interest', the tribals of Bihar would claim a separate province.

Lakra's usage of the majority-minority framework is significant for it points to the self-identification of tribes as a distinct minority segment of Bihar's population, which required a separate autonomous homeland for protection and freedom from exploitation. At a symbolic level, by pitching for a distinct statehood, such articulations were reiterating the essential link between tribal identity and its symbiotic relationship with the land/territory they inhabited. In time, such strong emotive appeals became characteristic of the Adivasi Mahasabha's political mobilization campaigns.

Linked to this was Beck's speech in which he put forward a history of tribal communities claiming their autochthonous status. He said that the current aborigines were the descendants of the 'ancient Adibasis, the aristocracy of India' and that several of the Depressed Classes too were descendants of the Adibasis.⁹⁶ Beck claimed that, despite the efforts of the tribal people to align themselves to nationalist forces, Gandhi and the Congress high command remained unsympathetic. At the same time, the latter acknowledged the case of Harijans as an all-India problem because they 'threatened to move away'. The object lesson for the tribes was that they could not trust anyone

⁹⁴ 'Excluded areas: Bihar assembly passes resolution', *The Times of India*, 4 April 1939, p. 14.

⁹⁵ Perhaps this was the first occasion when the demand for a separate tribal state (what later became known as Jharkhand) was raised inside the Bihar Legislative Assembly. For a long-term perspective, see S. M. Bosu, 'Jharkhand movement: a historical analysis', in Mrinal Miri (ed.), *Continuity and change in tribal society* (Shimla: Indian Institute of Advanced Study, 1993). For an excellent volume on the theme, see Nirmal Sengupta (ed.), *Fourth world dynamics, Jharkhand* (Delhi: Authors Guild Publication, 1982)

⁹⁶ 3 April 1939, File No. 137/40-R, Secretariat of the Governor General (Reforms), Government of India, 1940, p. 33. The next two paragraphs draw from this report, pp. 35–36, 39.

and 'must stand on [their] own legs'. While Beck agreed that seclusion was harmful for tribes, he reiterated the need for protection thus:

We feel we have been exploited and neglected due to our poverty and small number and especially because we have no political organization...Having seen all these, we have happily started our own movement, the Adinibas Movement... I would request my Bihari friends not to misinterpret this movement as being anti-national or anti-Congress. It is not a conspiracy; it is not missionary tactics. It is a sincere move for self-determination. If we have kept ourselves back from generously following into the Congress fold, it is not out of malice. It is for you to win our confidence. You must know that these aborigines are moving fast and that they are meant to live and live powerfully. This question of self-determination, this question of separation of the province must not be so confused or interpreted as to say that they are anti-national.

Both these tribal representatives in the 1939 Bihar debates were Christian converts, but the manner in which they articulated their frustrations, aspirations, and a distinctive sense of pride in their history suggests that the political landscape had begun to change. At least in Chotanagpur, the politics of indigeneity and ethnicity had begun to inform the consciousness of the tribal elite. It heralded a new age of modern associational politics within the Chotanagpur tribes (who consciously started identifying themselves as Adivasis) and paved the way for the emergence of Jaipal Singh Munda as *Marang Gomke*.⁹⁷ While most discussions of Munda, by and large, treat him in hagiographic terms, my analysis seeks to situate his rise in the context of the popular tribal movement demanding the separation of the Chota Nagpur Division (Hazariabagh, Palamau, Ranchi, Manbhum, and Singhbhum districts) and the Santhal Parganas from Bihar.

The first organized political formation, cutting across individual tribal identities and seeking to forge a regional claim, was the Chotanagpur Unnati Samaj, established in 1915.⁹⁸ The Tana Bhagat Movement which soon followed became a major vehicle for Gandhian mass politics in the region.⁹⁹ As the Great War

⁹⁷ Mostly available in the Hindi language, almost every study on Jaipal Singh suffers from being either hagiographic or iconoclastic. A representative example of the former is Ashwini Kumar Pankaj, *Marang Gomke Jaipal Singh Munda* (New Delhi: Vikalp Prakashan, 2015). For a highly disparaging and antagonistic viewpoint, see Balbir Dutt, *Jaipal Singh: ek ankahi romanchak kahani* (Ranchi: Prabhat Prakashan, 2017). An exception to the rule is a recent biography in English by Santosh Kiro, *The life and times of Jaipal Singh Munda* (New Delhi: Prabhat Prakashan, 2018). However, even this book is largely a selection of speeches and letters regarding Jaipal Singh's political career. In addition to Pooja Parmar's article, which I discussed in the introduction, perhaps the only other scholarly article on him has a sports focus: see Ronjojoy Sen, 'Divided loyalty: Jaipal Singh and his many journeys', *Sport in Society*, Vol. 12, no. 6, pp. 765-775; <https://doi.org/10.1080/17430430902944233>.

⁹⁸ For details, see K. L. Sharma, 'Jharkhand movement in Bihar', *Economic and Political Weekly*, Vol. 11, no. 1/2, January 1976, pp. 37-43.

⁹⁹ Sangeeta Dasgupta, 'Reordering a world: the Tana Bhagat movement, 1914-1919', *Studies in History*, Vol. 15, no. 1, 1999, pp. 1-41.

ended, the idea of separating Chotanagpur and Santhal Parganas from Bihar was first mooted during discussions around the Montague-Chelmsford reforms. A decade later, the issue was rekindled when the Indian Statutory Commission deliberated on the framework of future constitutional arrangements for India. A deputation of leading Adivasi politicians submitted a detailed memorandum and gave evidence before the Commission. They strongly favoured the creation of a separate province or a sub-province to ensure tribal autonomy.¹⁰⁰

The Government of India Act, 1935 introduced a new constitutional arrangement with remarkable outcomes for regional and national politics. There were three major results of the new constitutional framework for Bihar. First, like everywhere else, the passage of the Act marked a transformation from dyarchy to provincial autonomy.¹⁰¹ The elected provincial government was endowed with considerable powers in running the local administration. Barring certain exceptions where the governor could overrule their advice (such as the excluded and partially excluded areas), the ministers were the main executive decision-makers. Second, after a prolonged campaign by Oriya speakers, a new province of Orissa was created by amalgamating the Oriya-speaking tracts of the Madras presidency with those of the erstwhile province of Bihar and Orissa.¹⁰² Last, and significant for our purposes, the entire administrative division of Chotanagpur and Santhal Pargana was declared a 'partially excluded area' under section 92 of the said Act.¹⁰³ From this moment onwards, various political forces galvanized to press the demand for their separation from Bihar. The fortuitous confluence of these major changes opened up new ways of imagining the future of Adivasis. There was now a distinct political space for demanding their own autonomous homeland.

The Bihar Provincial Congress was dominated by people from north Bihar and vociferously opposed the Adivasi demand for separation. Inside the Congress machinery, there was very little representation from the Chotanagpur region. For over a century, various tribal protest movements in Chotanagpur had generated a distinct consciousness against the proverbial *diku* (outsider)¹⁰⁴ who exploited the indigenous groups in collusion with the colonial rulers. In the 1930s, Adivasi politics in Chotanagpur started representing Biharis as the *diku* whose exploitative tendencies had to be resisted.

For Bihari Congressmen, in turn, the Government of India Act, 1935 was a watershed moment. After the creation of Orissa, the prospect of a further

¹⁰⁰ *Selections from memoranda and oral evidence by non-officials (part I) Indian Statutory Commission. Volume XVI* (London: His Majesty's Stationery Office, 1930), pp. 435–438, 446–455.

¹⁰¹ L. N. Rana, 'Introduction of provincial autonomy (1937–1939) and the Jharkhand region', *Proceedings of the Indian History Congress*, Vol. 58, 1997, pp. 519–529.

¹⁰² 'The Government of India (Constitution of Orissa) Order', in *Orders in Council under the Government of India Act, 1935* (Delhi: Manager of Publications, 1937), pp. 1–15.

¹⁰³ 'The Government of India (excluded and partially excluded areas) order', in *ibid.*, pp. 24–26.

¹⁰⁴ For a nuanced recent study, see Sanjukta Das Gupta, 'The eye of a *diku* is like eye of a dog: changing role of *dikus* in an Adivasi society of Chotanagpur under colonial rule', in Lata Singh and Biswamoy Pati (eds), *Colonial and contemporary Bihar and Jharkhand* (New Delhi: Primus Books, 2014), pp. 39–57.

vivisection of Bihar through the separation of resource-rich Chotanagpur had to be scrupulously avoided. This necessitated first capturing political power through electoral means. The Congress was on a strong footing here as the mass mobilization campaigns of the Civil Disobedience Movement (1930–1932) had vastly enlarged its political appeal. As a result, in the January 1937 elections to the provincial legislative assemblies and councils, the Congress (in alliance with the Depressed Classes League) won spectacular victories in Bihar.¹⁰⁵ Its performance was poor only in the Mohammedan constituencies where the party won just three out of 39 seats.

Most notably, for our purposes, the Congress won five out of the six seats reserved for Backward Tribes and Areas.¹⁰⁶ Such an outcome was a body blow to the fledgling fortunes of the Adivasi movement. None of the candidates put up by the Chotanagpur Unnati Samaj or the Chotanagpur Kisan Sabha (CKS)¹⁰⁷ won against their Congress rivals. The failure of these groups to unite resulted in a dissipation of the limited Adivasi votes among various candidates. The sole exception to this overall trend was Boniface Lakra, the Chotanagpur Catholic Sabha candidate,¹⁰⁸ who won from the Gumla-Simdega Reserved seat for Backward Tribes and Areas. Another Catholic Sabha candidate, Iignes Beck won a seat reserved for Indian Christians. Together, Lakra and Beck were the only two non-Congress Adivasi MLAs who managed to gain a place in the Bihar Legislative Assembly.

The electoral defeat of the Adivasi politicians was not due to the organizational strength of the Congress machinery. Rather, the results were a reflection of Adivasi political groups jostling with each other for votes as they were unable to reconcile internal contradictions. Such divisions benefitted the Congress and ensured its electoral success. For the Adivasis, this was an existential moment, a time to think strategically and get their act together. Murmurings began among the new generation of educated Adivasi leaders which soon grew into an organized force.

The lead role in building this consensus was taken by the Chotanagpur Catholic Sabha whose office at Ranchi served as the meeting place for the splintered political forces attempting to forge meaningful political solidarity. Finally, in May 1938, a representative gathering of Adivasi leaders met in Ranchi with the goal of discussing the aims and objectives of a new

¹⁰⁵ A total of 94 Congress Party candidates (91 Congress and 3 Depressed Classes League) actually won the polls. See *East India constitutional reforms—elections: return showing the results of elections in India 1937* (Cmd.5589) (London, Edinburgh, Manchester, Cardiff and Belfast: His Majesty's Stationery Office, 1937). Other sources provide a figure of 99 MLAs of the Congress Party, which is based on a head count given in Dr G. S. P. Ambastha, *Congress government in Bihar* (New Delhi: Classical Publishing Company, 1985), Appendix 2, pp. 299–308. A slightly different figure of 95 seats for the Congress alliance is given in David Dennis Taylor, 'Indian politics and the elections of 1937', PhD thesis, University of London, 1971, p. 352.

¹⁰⁶ *East India constitutional reforms—elections*, p. 86.

¹⁰⁷ Established in the year 1931 by Theble Oraon, the CKS was modelled on the Bihar Prantiya Kisan Sabha. Its core constituency were the non-Christian tribal communities.

¹⁰⁸ As the title suggests, this was an organization of Catholic converts who formed the largest number of tribal Christians compared to any other denomination in the Chotanagpur region.

organization. They unanimously named it the Adivasi Sabha (Adivasi Assembly) and formed a temporary Executive Core Committee. Theodore Surin¹⁰⁹ was nominated as president and Paul Dayal¹¹⁰ became the general secretary.¹¹¹

The news brought unease to the Congress camp and, indeed, it was a double challenge. First, the Adivasi Sabha displayed an inherent potential to develop into a robust anti-Congress opposition, especially in the Chotanagpur region. Second, the religious composition of the Adivasi Sabha stirred an undercurrent of anxiety on the part of the overwhelmingly caste Hindu Congress nationalists as the Adivasi leaders were mostly Christian converts. As such, the Muslim League also reached out to them for a possible alliance against the Congress. These developments alarmed Gandhi for he feared that under the influence of the Christian missionaries—their ‘ultimate aim being the Adivasis’ conversion—the tribals might become ‘de-Indianized’¹¹² and develop separatist sentiments. He wanted the Congress to take up the challenge of providing a strongly Indian counter by working among the Adivasis and wrote: ‘They provide a vast field of service for Congressmen.’¹¹³ To make up for his own earlier oversight, Gandhi added the (previously absent) topic of ‘service of Adivasis’ to a manifesto for the constructive programme.¹¹⁴ He also started using the term ‘Adivasi’ consistently until his death. There is strong evidence to suggest that Gandhi too was opposed to the idea of the scheduling of tribal areas. Hardiman writes that by the early 1940s,

He (Gandhi) feared, however, that the Adivasis might follow the example of the Muslim League and launch a series of campaigns for separate states... In an address to the Congress workers of Midnapore district in Bengal—an area with a large Adivasi population—he stated: ‘The 1935 Act had separated them [the Adivasis] from the rest of the inhabitants of India and had placed the “excluded areas” under the Governor’s direct administration. It was a shame that they had allowed them to be treated like that. It was up to them to make the Adivasis feel at one with them.’¹¹⁵

As events unfolded, Gandhi’s intuition regarding tribal demand for separate states was proving to be partially correct. Soon, the Adivasi Sabha began its search for a leader capable of leading their movement. The British also aided this process: Sir Maurice G. Hallett, the governor of Bihar, asked his

¹⁰⁹ Surin came from the Munda tribe and was a Christian convert.

¹¹⁰ Dayal was a pleader working in the Ranchi city.

¹¹¹ Nirdosh Kumar, *The making of Adivasi Mahasabha: a history of Adivasi politics in colonial Chhotanagpur* (Lucknow: Book Rivers, 2019), p. 80.

¹¹² ‘On train Bardoli-Wardha, January 9, 1942’ from *Harijan* 18-1-1942, *Collected Works of Mahatma Gandhi* (hereafter CWMG), Vol. 75, pp. 210–211. <https://www.gandhiheritageportal.org/>, [accessed 18 May 2022].

¹¹³ *Ibid.*

¹¹⁴ ‘Constructive programme: its meaning and place’, 13 December 1941, CWMG, Vol. 75, pp. 161–162. <https://www.gandhiheritageportal.org/>, [accessed 18 May 2022].

¹¹⁵ Hardiman, *Gandhi in his times and ours*, p. 152.

personal friend Jaipal Singh to consider taking up politics as his vocation and provide leadership to the fledgling organization. The details are well captured in Singh's autobiography.¹¹⁶ Singh recounts meeting Hallet who said 'Don't waste your time with congressmen. Go to Ranchi. There is an Adivasi agitation just started. You have wandered around the world in all sorts of good jobs. Do something for your people in memory of Canon (Cosgrave).'¹¹⁷ Before moving on to discussing Jaipal Singh's political career after meeting Hallett, a few biographical details may help to put his role in perspective.

Jaipal alias Pramod Pahan was born into a Munda family of priests on 3 January 1903 in Takra village of the Khunti sub-division in the contemporary state of Jharkhand. He was admitted as Jaipal Singh to St Paul School at Ranchi whose principal, Canon Cosgrave, took an interest in the young boy, eventually converting him to Christianity. In 1918, Cosgrave took him to England. In 1926, Jaipal Singh graduated from St John's College, University of Oxford with honours in economics. As well as his decent academic record, he was a good orator and an excellent hockey player. At Oxford, Jaipal Singh became an ICS probationer but his decision to captain the Indian hockey team in the 1928 Amsterdam Olympics without official leave meant that that he had to resign from the service. Soon afterwards, he was made a lucrative job offer as a covenanted mercantile assistant in the Royal Dutch Shell Group and began working in Calcutta. From 1932 onwards, Munda pursued a teaching career which culminated in him becoming the officiating vice-principal of Rajkumar College, Raipur, where he tutored many princes of the native states of central and eastern India. Between 1937–1939, he served as the revenue commissioner and colonisation minister in the Bikaner state and rose to become the foreign secretary.¹¹⁸

In 1937, Jaipal Singh tried to join the Congress but was apparently snubbed by Rajendra Prasad.¹¹⁹ Following Hallett's suggestion, towards the end of 1938, he went to Ranchi and met a deputation of senior Adivasi Sabha leaders, including Rai Saheb Bandiram Oraon, Paul Dayal, Ignés Beck, Theble Oraon, Theodore Beck, and Julius Tigga, etc. The deputation requested that he take up the position of the president of the Adivasi Sabha. After a round of consultations with his wife and family, Jaipal Singh agreed to the proposal.¹²⁰

¹¹⁶ First written in 1969 as a 'collection of short stories...while sailing to England', the manuscript lay with an unnamed professor at the University of Oxford for around three decades. One of his students came to Jharkhand for her fieldwork and upon returning to Oxford, her supervisor handed over the manuscript and told the student to 'pass it on to her friends in Jharkhand to do what they would want to do with it'. Finally, the book was published posthumously 35 years after being written. See the foreword by Jayant Jaipal Singh (son of Jaipal Singh) and the introduction by the book's editor, in Rashmi Katyayan (ed.), *Marang Gomke Jaipal Singh, Lo bir sendra: an autobiography* (Ranchi: Prabhat Khabar Publications, 2004). I am grateful to the Ranchi-based journalist and author Anuj Kumar Sinha and my friend Mayank Mohit Sinha, Advocate, Jharkhand High Court for loaning me a copy of this out-of-print but very crucial book.

¹¹⁷ *Ibid.*, pp. 95–96.

¹¹⁸ Reconstructed from Singh, *Lo bir sendra*.

¹¹⁹ *Ibid.*, p. 95.

¹²⁰ *Ibid.*, p. 98.

On 20 January 1939, during the second session of the Adivasi Sabha, Jaipal Singh Munda was appointed its president.¹²¹ His presidential speech described the Sabha as a 'united front' of erstwhile Adivasi political organizations and, at his suggestion, it was renamed the Adivasi Mahasabha (Adivasi Grand Assembly).¹²² Munda delivered a blistering speech in four languages (English, Hindi, Sadani and Mundari)¹²³ which received thunderous applause. He declared,

The Adivasi Movement stands primarily for the moral and material advancement of Chhota Nagpur and the Santhal Parganas, for economic and political freedom of the aboriginal tracts and, in sum for the creation of a separate Governor's Province comprising roughly of Chhota Nagpur and the Santhal Parganas, with a Government, an administration appropriate to its moods...(We) suffered by being appended onto Bihar. In separation alone lies the salvation of Chhota Nagpur. We will be content with nothing less than an existence of our own, a separate Province, a separate Government, a separate administration...We must help ourselves. Our great future is in our own hands.¹²⁴

Jaipal Singh Munda's entry electrified the Adivasi Mahasabha. In the District Board elections held barely two months later, the Adivasi Mahasabha fielded candidates only in the districts of Singhbhum and Ranchi. It won 16 out of 25 seats in Ranchi and 22 out of 24 seats in Singhbhum.¹²⁵ The experiment of creating the Adivasi Mahasabha or the 'Coalition Aborigines' had started reaping electoral dividends. The positive results also strengthened the position of Jaipal Singh Munda within the Adivasi Mahasabha.

During the Second World War, the Chotanagpur region became a hotbed of political activities. On 3 September 1939, Lord Linlithgow committed the Government of India's full-fledged support to the British war effort. Protesting this unilateral decision, all provincial Congress governments resigned from office. As Srinath Raghavan tells us, the 'wartime mobilization of India was contingent on securing popular support and participation which in turn depended on co-opting Indian political parties and leaders'. Given the Congress's stiff resistance to Indian participation, the British were desperately seeking allies. In doing so, they came to 'rely heavily on traditionally marginalized social groups, and so gave them greater political voice'.¹²⁶ The bulk of the war recruits, whether as combatants or labourers, were likely to come from the Depressed Classes and the tribes.

¹²¹ The following two paragraphs are based on Kiro, *The life and times of Jaipal Singh Munda*, Chapter 3 'Captain of a movement', pp. 34–62.

¹²² This translation appears in Pooja Parmar, 'Undoing historical wrongs: law and indigeneity in India', *Osgoode Hall Law Journal*, Vol. 49, no.3, 2012, p. 502.

¹²³ Singh, *Lo bir sendra*, p. 99.

¹²⁴ Kiro, *The life and times of Jaipal Singh Munda*, p. 39.

¹²⁵ Singh, *Lo bir sendra*, p. 100.

¹²⁶ Srinath Raghavan, *India's war: the making of modern South Asia* (New Delhi: Allen Lane, 2016), p. 5.

Rightly sensing an opportunity to further the Adivasi Mahasabha's political interests, Jaipal Singh decided to lend a helping hand to the British. During the Third Adivasi Mahasabha Conference at Ranchi on 15 and 16 March 1940, even before delivering the presidential address, he moved a resolution of 'loyalty to the Throne which concluded with a request that an Adibasi regiment should be raised'.¹²⁷ Coming close on the heels of the Ramgarh session of the Indian National Congress, this was a politically significant move. In July 1940, Jaipal Singh Munda published the first number of his newspaper, the *Adivasi Sakam*, in which he 'advocated full support to the Government in the present war'.¹²⁸ He played a key role in recruiting the Munda Labour Battalion drawn entirely from his own tribe, the Mundas.¹²⁹ Though no reliable estimates are available, recent scholarship claims that approximately 7,000 Adivasi youth were recruited from the Chota Nagpur region owing to these efforts.¹³⁰ Several of these recruits returned home after the war and played a crucial role in the political mobilization campaigns of the Mahasabha.

Jaipal Singh Munda's involvement also extended to the princely states surrounding the Chotanagpur division. Since 1933, they had been administered as the Eastern States Agency and enjoyed direct relations with the Government of India. As Indian Independence approached, these states tried to consolidate themselves as a unified Eastern States Union. Through deft machinations, Vallabhbai Patel and V. P. Menon managed to scupper these plans, forcing these recalcitrant rulers to accede to the Indian Union by December 1947.

With effect from 1 January 1948, the states of Kharsawan and Seraikella were to be amalgamated with the state of Orissa. Jaipal Singh wanted Kharsawan and Seraikella to become a part of the Bihar Province. With the tacit support of the rulers of these states as well as the Bihar government, he began fomenting an agitation in support of his demand. On 1 January 1948 (the exact day of their supposed merger with Orissa), a clash ensued between tribal supporters of the Adivasi Mahasabha and the Orissa Police in which several people were killed and hundreds were injured. It was alleged that machine guns were used to fire at an unarmed crowd and scores of bodies were disposed of using trucks. Singh raised the issue in the Constituent Assembly and held the Orissa government responsible for the bloodbath at Kharsawan.

The storm generated by the police shoot-out, however, refused to die down. Jaipal Singh termed it 'another Jallianwalabagh'.¹³¹ In these circumstances, the

¹²⁷ 'Reports on the events in Bihar during the second half of March 1940', F. No. 18/3/40-Poll, Political Branch, Home Department, Government of India, 1940, National Archives of India (hereafter NAI).

¹²⁸ 'Report on the events in Bihar during the first half of July 1940', F. No. 18/7/1940, Poll(I) Branch, Home Department, Government of India, 1940, NAI.

¹²⁹ Raghavan, *India's war*, p. 400.

¹³⁰ Nirdosh Kumar, 'Rise and development of Adivasi identity and politics in colonial Chhotanagpur: retracing through historiography', *International Journal of Applied Social Science*, Vol. 6, no. 7, July 2019, p. 1896. http://scientificresearchjournal.com/wp-content/uploads/2019/08/Social-Science-6_A-1892-1900-Full-Paper.pdf, [accessed 18 May 2022].

¹³¹ Cited in Kiro, *The life and times of Jaipal Singh Munda*, p. 112.

earlier decision to merge Seraikella and Kharsawan into Orissa was put on hold. In May 1948, the Government of India overturned its award and decided that, for reasons of administrative convenience, Seraikella and Kharsawan would be merged with the Singhbhum district of Bihar. This was a major victory for the Jaipal Singh-led separate statehood movement. However, instead of being placated by the award, he became even more vociferous. Thereafter, Munda relentlessly pursued the goal of a larger Jharkhand by all possible means, stepping up the political tension by demanding the return of 'nine other Chotanagpur States, viz., Changbhakar, Jashpur, Korea, Surguja, Udaipur, Bamra, Bonai, Gangpur, and Keonjhar'.¹³²

In this period, the Jaipal Singh-led Jharkhand movement was viewed with grave suspicion by top nationalist leaders. Pandit Ravi Shankar Shukla, the premier of Central Provinces, wrote a letter to Patel placing certain 'extra-judicial' considerations before him:

The Adibasi problem is already proving to be a serious headache. The agitation to merge Surguja and Jashpur with Bihar is really connected with Jaipal Singh's movement for the creation of a separate Jharkhand. Jaipal Singh wants all his Adibasis under one provincial government so that he may have to fight only on one front...His Adibasis are spread over the four provinces of West Bengal, Bihar, Orissa and the CP. If Jashpur and Surguja are merged with Bihar, Jaipal Singh will be in a strong position and his movement may prove too strong to be dealt with by Bihar. It is obvious whether in the larger national interests of the country this separatist tendency should be encouraged by concentrating the Adibasi population in one province...¹³³

These words seem to have had their intended effect and Jaipal Singh's further demands were resolutely set aside. The merger of Seraikella and Kharsawan with Bihar was the only concession that the movement for Jharkhand received from the not-so-benevolent Patel and the lid was effectively shut on the agitation in subsequent years.

Thus, Jaipal Singh Munda was simultaneously playing a leading role as an Adivasi representative inside the CA while also being in the eye of a storm in his home region of Chotanagpur. In this context, it is pertinent to mention that at least one of the tribal areas affected by communist agitations was also toured by the Excluded and Partially Excluded Areas Sub-Committee. These were the Umbergaon and Dahanu talukas of Thana district which the sub-committee visited in March 1947, soon after the Warli disturbances had been quelled. The sub-committee enquired from the Warlis present about the wages they received and their land yield. Some women were also questioned about their food and cloth requirements to which they replied that

¹³² 21 May 1948, Harekrushna Mahtab to Patel, in Durga Das (ed.), *Sardar Patel's correspondence: 1945-50* (Ahmedabad: Navjivan, 1973), Vol. VII, pp. 517-518.

¹³³ 12 May 1948, Shukla to Patel, in *ibid.*, pp. 546-547.

they had to sell chickens to procure cloth. Enquiries were also made about caste, panchayats, and settlement of disputes.¹³⁴ As the lone and vocal tribal representative in this group of Congress sympathizers, Jaipal Singh Munda told a journalist that his tours, observations, and conversations in the Warli villages had convinced him that they were the 'most neglected people in the country'. Munda had asked,

...the Warlis to narrate their grievances and demands. He said that the British were quitting India shortly and the Indian Government would redress their grievances. If the aboriginals did not speak now their rights would be overlooked. He asked the Warlis if they wanted seats on District Boards and the Legislative Assembly. A representative of the aboriginals came forward and asked for ameliorative measures like the grant of land, timber for building houses, the opening of schools, hospitals and the digging of more wells as they had to drink stream water, resulting in the spread of disease.

It is interesting to note that it was the lone vocal Adivasi member of the sub-committee who asked the Warlis whether they wanted reserved seats in representative institutions. The only Warli response which came expressed no interest in tribal representation in democratic politics. Instead, the person demanded the fulfilment of more fundamental everyday needs.

In its final report submitted to the Advisory Committee in September 1947, the Thakkar Sub-Committee also dealt with the issue of Jharkhand in some detail. It remarked that Bihar contained 'the largest compact block of territory comprising any scheduled area in India'.¹³⁵ Here again, the issue of the Christian tribals featured prominently. They were educationally and economically advanced compared to non-Christian tribals, as well as more organized politically. Their role in the 'separatist' Jharkhand movement was also discussed, as an 'extreme expression of the discontent prevalent in Chota Nagpur', but it was also conceded that the movement was 'capturing the imagination' of the tribals.

Jaipal Singh added a note of dissent to the Thakkar Report. He expressed discontent that a large portion of previously declared partially excluded areas were de-scheduled. Singh claimed that all the witnesses examined by the sub-committee were 'emphatic that the Chota Nagpur Division as a whole should be scheduled and no district or territory should be excluded from the scheduled status'. In his opinion, the veto power of the Tribes Advisory Council was essential to protect the one-and-a-half million Adivasis of Manbhum, Hazaribagh, and Palamau districts who had been de-scheduled. He also proposed that the Indian Government should claim back the Chittagong Hill Tracts and that the tribal tract in Mirzapur district of United Provinces should be transferred to the Scheduled Areas of the Chota Nagpur

¹³⁴ *The Times of India*, 17 March 1947, p. 7. The next two paragraphs draw from this report.

¹³⁵ B. Shiva Rao (ed.), *The framing of India's constitution: select documents* (Delhi: Universal Law, 1967; reprint 2004), Vol. 3, p. 763. The next two paragraphs draw from this report, pp. 764-768.

plateau. In his reply to Jaipal Singh's note of dissent, Thakkar side-stepped him by asserting that none of the witnesses examined by the sub-committee had been told that their task was to recommend 'scheduling' of certain areas in different provinces. By doing so, Thakkar sought to dissociate the instrument of scheduling from the broader constitutional framework of protecting tribal interests in independent India.

The final framing of the Fifth Schedule

Following the submission of the reports of the sub-committees, on the suggestion of Patel, a joint meeting was held on 25 August 1947. This meeting acknowledged that protection of land, backwardness, illiteracy, medical aid, and communication were common issues and concerns in these different regions. Despite repeated demands by Jaipal Singh Munda to discuss the reports of the sub-committees, the matter was kept on the back-burner. The final discussions began on 5 September 1949 when the draft Fifth Schedule was tabled before the CA by Dr B. R. Ambedkar. It was a Monday and the draft had been circulated among the CA members only on the previous Friday. Ambedkar introduced three important changes to the original draft. First, the provision for a Tribes Advisory Council (TAC) in every state having Scheduled Areas or Scheduled Tribes was amended and the matter was left to the discretion of the president. A second amendment converted the Council into a toothless body as it gave the governor the discretion to overrule the Council's advice on laws made by Parliament or the local legislature. Ambedkar said that it was 'much better' that 'his (Governor's) discretion should not be controlled absolutely'. Thirdly, the original draft did not allow for amendments to the Fifth Schedule. An amendment was moved to this effect, enabling Parliament to do so, with a simple majority, at a later date. Ambedkar deemed that Parliament should have this power as 'it is no use creating a sort of a State within a State...(The situation) should not be stereotyped for all times and it should be open to Parliament to make such changes as time and circumstances may require'.¹³⁶ These amendments drew the ire of Jaipal Singh, especially the second amendment converting the TAC into a pale shadow of its original image. Singh alleged that he had not even been consulted on the matter:

I as an Adibasi had and must have the first claim to be consulted in the proposed change...I want that the Tribes Advisory Council should be effective and have a real say in what is being done...(TAC) should be a reality and not a farce.¹³⁷

K. M. Munshi of the drafting committee gave two reasons for revising the Fifth Schedule. First, the earlier draft was a 'uniform stereotyped code for the whole country', while in every province, the tribal problem had specific

¹³⁶ Savyasachi (ed.), *Tribal forest-dwellers and self-rule*, p. 72.

¹³⁷ *Ibid.*, pp. 82–83.

variations. Secondly, while the earlier draft only related to the provinces, the political set-up had undergone a massive change as a result of the accession of princely states into the Union of India. Several of them had large populations of the tribal people and it was essential to have one kind of scheme for the whole country.

In the end, all of Ambedkar's amendments were carried, while none of the features demanded by Jaipal Singh Munda came to pass the threshold of approval from the CA whose composition was overwhelmingly Congressmen. Despite Munda's protestations, the TAC came to exist in a merely advisory capacity with no real powers of supervision. The Indian National Congress dictated the terms on which Jaipal Singh's suggestions were received and, while it agreed to enshrine the Fifth Schedule, its potential efficacy was massively curtailed by incorporating these last-minute amendments.

From the beginning of CA deliberations, the dice was heavily loaded against prospects of reaching a consensus on an empowered set of constitutional arrangements under the Fifth Schedule. Owing to the emergence of the Adivasi Mahasabha as its chief opposition in Chotanagpur, the Congressmen, especially those from Bihar, pre-judged the intentions of Jaipal Singh Munda in the CA rather harshly and did not give much credence to his demands for tribal autonomy. In effect, the giving of undue weight to the governor's discretionary powers in preference to the TAC institutionally undermined the force of protection which the original draft Fifth Schedule had promised to offer. The governor, lacking a fixed tenure and hence inevitably controlled by the centre, could never exercise any meaningful discretionary power in the interests of the tribes. Though the CA accepted scheduling as an instrument of the independent Indian nation-state's policy of promoting tribal welfare and providing protection to vulnerable tribal communities, its acceptance was at best notional and a consequence of political expediency to checkmate the Adivasi Mahasabha's challenge to the prospects of a long period of Congress hegemony in the politics of eastern India in general and of Bihar in particular.

Conclusion

In this article, I have tried to understand the regional and national imperatives that went into framing the Tribal Question in India. I have charted some of the processes by which the CA appropriated colonial ideas of protective provisions for tribal populations and woven them into the fabric of the Indian Constitution. In reconstructing the range of interests, individuals, and ideologies that were involved in this dynamic, I have put together a narrative that shows how, during 1937–1950, interconnected events were occurring in disparate theatres that had an impact on the final resolution of the Tribal Question. These separate streams have to be brought together to understand the constitutional settlement that emerged regarding special provisions for areas that fell under the Fifth Schedule. Thus, I have argued that the agency of the tribals themselves was an important factor in achieving the framework enshrined in the Indian Constitution through the Fifth and Sixth Schedules.

As the curtains closed on the Second World War and the British exit from India seemed imminent, a new post-imperial global order was on the anvil. In a world trying to come to terms with organized and state-sponsored ethnic cleansing projects (including the holocaust of Jews), the debates on minority rights in what would soon become ex-colonies acquired an immediacy in the international legal discourse. As a future sovereign member of the international community, the Indian nation-state, through its Constitution, had to display elements which were considered legitimate in an impending world order.

In this context, the anxieties of tribals, Untouchables, and religious minorities had to be addressed in the constitutional framework announced under the Cabinet Mission Plan of May 1946. The earlier solution to the tribal predicament, advocated by the anthropologically oriented colonial scholar-administrators, was protection from legislative intervention through territorial ring-fencing of predominantly tribal areas. Thus, in the late colonial framework, scheduling was an instrument of 'excluding' the notified areas, totally or partially, from the legislative powers of democratically elected assemblies or councils. In response, the nationalists lambasted this administrative device as another expression of the larger British policy of divide and rule. Post the Haripura Congress session in 1938, the nationalists decided to oppose it in an organized manner. Towards that end, the All-India Excluded and Partially Excluded Areas Association, manned and sponsored by the Indian National Congress, received a fresh lease of life. It continued to be the main platform for voicing the nationalist demand of repealing the provisions of special administrative regimes contained in the Government of India Act, 1935.

Earlier, from about 1944–1945, in anticipation of the transfer of power through a new working Constitution, hectic political mobilization began on all sides. Through the pressures generated by the communist-led tribal Telengana, Tebhaga, and Warli movements and revolts, the need to address the position of tribes in a future Indian nation-state had certainly acquired an urgent dimension. The Telengana revolt (1946–1951), in particular, continued to cloud the entire constitution-making process and even beyond.

While the communists operating under the far-left Ranadive line could be dismissed as violent, lawless, and anti-national, the challenge posed by the Jaipal Singh Munda-led Adivasi Mahasabha was of a qualitatively different order. The relentless efforts of their cadres in raising the demands for a separate autonomous state of Jharkhand enabled the Mahasabha to make successful inroads in electoral politics in the Chotanagpur region. Potentially, it was a far more serious threat to the long-term political dominance of the Indian National Congress. Through building up a robust organizational structure, deft and tactful mobilization techniques, as well as its canny decision to support the British war effort, both Munda and the Adivasi Mahasabha grew in political stature during the Second World War. In the provincial elections of 1946, held a few months prior to the announcement of the Cabinet Mission Plan, the Adivasi Mahasabha was able to win enough seats (three) to send their *Marang Gomke* to the CA, though Munda himself lost the contest for a Bihar provincial assembly seat to his Congress rival. All this happened in the face of stiff political resistance by the Bihar Congress in a period of high

drama and turmoil.¹³⁸ Thus, by the time the CA began deliberating on the future constitutional framework, the Adivasi Mahasabha had emerged as an important pivot of anti-Congress opposition forces in the politically important province of Bihar. Furthermore, the agitations that Jaipal Singh was leading in several of the ex-princely states was galvanizing a regional Adivasi political identity across provincial borders and increasing his sphere of influence.

In this period of tenuous legitimacy for the post-colonial Indian nation-state (1947–1950), the task of pacifying the often violent tribal autonomy movements in various parts of India fell on the shoulders of the national leadership of the Indian National Congress. Over the three years of constitutional deliberations, they gradually worked out a strategic shift vis-à-vis Congress's earlier stated position against the scheduling of predominantly tribal areas. When activists become rulers, a different set of demands impinge upon their principles and ideology which necessitate tactical retreats in order to gain wider legitimacy.

In such a transitional framework, the Congress nationalists were fighting a two-pronged battle: militarily against the communists and electorally against the Adivasi Mahasabha. With the control over a highly coercive ex-colonial military apparatus just emerging out of the Second World War, the Congress-led governments in Hyderabad and Bombay could violently repress the political challenge posed by the communists. While the Congress's success against their communist rivals was a foregone conclusion, the charge raised by the tribal autonomy movement under the leadership of Jaipal Singh and the Adivasi Mahasabha required tricky political manoeuvring. The challenge for the Congress was to reign in the Adivasi movement, especially its bid to divide the politically important province of Bihar which was home to many prominent leaders of the party, including the president of the CA, Dr Rajendra Prasad. In the bitter tug of war for political dominance, the Congress chose to procrastinate on the resolution of the Tribal Question until the closing months of CA.¹³⁹

Moreover, in order to buttress its own rank and file, Congressmen needed to win allies in the Chotanagpur region. Also, in a promised land of universal adult franchise, the Congress could ill-afford to be seen as working against the interest of Adivasis. The choice was clear: it could only opt between keeping Bihar as a unified state or sticking to its long-held principled position of repealing the provisions of excluded and partially excluded areas. Thus, it was pure political expediency that led the Congress to choose the former over the latter. It disregarded the demand for Jharkhand and agreed to incorporate the provisions of the Fifth Schedule. However, the incorporation was allowed only on the terms dictated by the Congress. As a result, certain key modifications designed to undercut the challenge being mounted by a

¹³⁸ Admittedly, large gaps remain in working out a history of the early phase of the Jharkhand movement. This story deserves a separate telling.

¹³⁹ Though both the Bordoloi and the Thakkar sub-committees had submitted their respective reports in 1947, the debates in the CA on the provisions for the Fifth and Sixth Schedules happened only in early September 1949. Less than three months later, the CA wound up its proceedings.

once-Olympic-champion-turned-shrewd-politician were introduced. It is interesting to note that the amendments were proposed by the chairman of the Drafting Committee, Dr B. R. Ambedkar, the pioneering leader of the Scheduled Castes. It was a shot which the Congress took from his safe shoulders.

The acceptance of scheduling by a Constituent Assembly dominated by Congressmen should also be seen as a transformation in the political character of the Indian National Congress. Before the British exit, Congress was essentially a united front of anti-imperialist nationalist forces whose top leadership led an independence movement and aimed at the establishment of a sovereign democratic nation-state in India. After tasting the fruits of political power during the period of the Congress Ministries (1937–1939), however, the organization was slowly mutating into a quintessential political ‘party’ engaged in an electoral numbers game in order to capture and maintain state power.

In the ultimate resolution of the Tribal Question through special provisions in the Indian Constitution, the role of tribal agency is discernible in two ways. First, starting with the Bihar Legislative Assembly, and right down to the CA debates itself, figures like Ignés Beck, Bonifce Lakra, and Jaipal Singh took a leading role. The sub-committee headed by A. V. Thakkar, of which Jaipal Singh Munda was a member, toured important tribal tracts and acquainted themselves with the conditions there, which led to its accepting in principle the policy of territorial segregation. Secondly, the various communist-led movements in tribal areas and the Jharkhand agitation by the Adivasi Mahasabha under Jaipal Singh Munda’s leadership gave tribal demands a certain ‘visibility’ in the constitutional dynamics played out between 1947–1950. Already reeling from the large-scale communal genocide after partition, the sharpening of the Tribal Question further pressurized the nationalist leadership who were stretched thin. The combined effect of these movements was decisive in the changed stance of the Indian National Congress on the issue of excluded and partially excluded areas. Under pressure from several sides, the new rulers of the independent Indian nation-state undertook to devise a administrative paradigm for governing tribal areas that differed significantly from the governor-centric one enshrined in the Government of India Act, 1935. In this process, almost the entire colonial discourse on tribal people was appropriated, but with one crucial distinction: representational democracy through elections was now given pride of place.

In the final analysis, despite a deficit in having a sufficiently broad-based English-educated and vocal middle-class elite, owing to the successful mobilization campaigns by the communists and the Jaipal Singh Munda-led Adivasi Mahasabha, the tribes/Adivasis did claim a share of national attention and political visibility in the constitutional deliberations of the late colonial period (1918–1947). Had it not been for these pockets of resistance, it is highly unlikely that the Indian National Congress would have agreed to the inclusion of Fifth Schedule areas as a part of the Constitution of India. Though both forces were ultimately dissipated and many of their cadres absorbed into the Congress, they played a historic role in breaking the Congress’s hegemony and position in predominantly tribal areas of the Indian subcontinent.

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