INDIAN POLITICS AND POLITICAL PROCESSES

IDEAS, INSTITUTIONS AND PRACTICES

Edited by
Mithilesh Kumar Jha and Kamal Nayan Choubey

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Constitutional Rights, Issues and Challenges

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Introduction

A comprehensive understanding of Indian tribals and issues related to their lives and politics is an exceedingly complex task because tribal communities are highly diverse and face different issues and challenges. The Indian tribes, however, can be broadly classified into three categories: one, those tribals who are living in the northeastern part of the country (coming under the Sixth Schedule of India); two, tribal communities residing in the other parts of the country (covered under the Fifth Schedule of the Constitution) and finally, those communities which are neither living in the Sixth Schedule Areas nor the Fifth Schedule Areas. It is important to note that the provisions of the Sixth Schedule do not cover all tribal areas of the Northeast, and there are many areas in the rest of the country that are not part of the Fifth Schedule. It should also be noted that the tribal population is highly diverse. Though many tribals live in rural areas and depend upon forest land and its resources, a small proportion also lives in urban areas. The proportion of the urban population is very high in the northeastern states. Furthermore, a small proportion of tribals live a primitive life, that is, they are still living as hunter-gatherers. So whenever we attempt to understand the situation of tribals in India, we must focus on the situations and problems of these distinct groups.

As per the 2011 Census, the Scheduled Tribes (STs) constitute 8.6 per cent of the total population of the country, and their population is estimated at 104 million. There has been a substantial increase in the population of STs. In 1961, their population was 30.1 million, 6.9 per cent of the total population. The reason behind the growth of this population was natural growth and the inclusion of new groups in the category of STs. More than three-fourths of the tribal population reside in central India that is, Madhya Pradesh (14.69 per cent), Chhattisgarh (7.5 per cent), Jharkhand (8.29 per cent), Andhra Pradesh (5.7 per cent), Maharashtra (10.08 per cent), Odisha (9.2 per cent), Gujarat (8.55 per cent), Rajasthan (8.86 per cent) and West Bengal (5.6 per cent). The northeastern states comprise about 13 per cent of

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the total tribal population in the country. The remaining 6 per cent resides in southern and northern India, including Andaman and Nicobar Islands. However, the proportion of the tribal population is indeed higher in northeastern states (Mizoram, 94.4 per cent; Nagaland, 86.5 per cent and Meghalaya, 86.1 per cent), and a union territory, Lakshadweep (94.8 per cent) than most of the central Indian states (Chhattisgarh, 33.6 per cent; Jharkhand, 26.2 per cent; Odisha, 22.8 per cent; Madhya Pradesh, 21.1 per cent; Gujarat, 14.8 per cent; Rajasthan, 13.5 per cent and Maharashtra, 9.5 per cent; Ambagudia & Xaxa, 2020, pp. 3–4).

This chapter aims to present a comprehensive understanding of tribals in India and various aspects related to their life, livelihood, and politics. It makes an attempt to encompass the diversity of the tribal communities and their various problems related to livelihood and development. It covers the developments since the colonial period, and discusses key events, legislations, and policies related to tribals, but largely focuses on the events after 1990 and underlines that the post-2014 general election era represents the continuities of the previous trends of overlooking tribal rights, but a new trend has emerged, where Central Government tried to weaken the laws like FRA.

Before moving forward to understand the changing policies of colonial and post-colonial states about tribal communities in India, it would be helpful to understand the contested debates regarding the definition and identification of tribals. There has not been any consensus regarding the definition of 'tribes' among scholars. According to Virginius Xaxa, while studying Indian tribals, the British anthropologists focused on their total separation from the larger Indian society. On the other hand, the Indian anthropologists or sociologists focused on a connection between tribal communities and the larger Indian society. They have argued that tribals have been in a constant cultural transition towards the larger Indian society. N. K. Bose has termed it as Hindu ways of tribal assimilation and G. S. Ghurye has termed tribals as 'backward Hindus'. However, all Indian sociologists have not accepted such views. Xaxa, for example, underlined that there could be some similarity between tribal ways of life and the Hindu religion. However, one can find similarities between their religion and African tribals' religion. So based on this similarity, it would be correct to call them Hindus. Indeed, tribals' relationship with Hindus has been a contested issue, and organizations like Akhil Bharatiya Vanvasi Kalyan Ashram (tribal wing of the Rashtriya Swayamsevak Sangh) have also termed them as Hindus, and they have continuously opposed their conversion to Christianity by Christian missionaries. In contemporary times, there has been debate over whether tribals or Adivasis are indigenous people of India. Many tribal activists have underlined that tribal communities are actual indigenous people of the country. However, organizations like Vanvasi Kalyan Ashram have opposed this kind of understanding. Xaxa has argued that it would not be factually correct to call tribals indigenous people in every parts of the country. However, it is also true that

in contemporary India, many tribal communities have adopted this identity to assert their rights (Choubey, 2015a, 2021; Xaxa, 1999).

Historical Background: Emergence of Categorization and Impact on Tribal Life

It is a fact that pre-colonial rulers also intervened in forests for occasional hunting and some resources like timber but during the colonial rule, the intervention increased immensely. In this sense, tribal communities, both in the northeastern part of the country and central India, were living more or less an autonomous community life based on their cultural and social norms. The colonial rule made an unprecedented impact on the life of tribal communities. The census created the category of tribes, made a complex set of rules for tribal areas and established a legal framework to ensure the unhindered exploitation of forest resources. Colonial historians have argued that the British rule established 'the rule of law' in India, made many protective measures for tribal communities and saved India's forests from obliteration. However, various Indian thinkers have rejected this argument. According to them, the Britishers changed laws based on their interests. Sometimes, they change laws in opposite direction and made their forest policies to accomplish their imperial interests. Making laws to protect the interests of tribals was also an attempt to soothe the rebellion in tribal areas and present a paternalistic face of colonial rule (Choubey, 2015a; Gadgil & Guha, 1992).

Indeed, one can quickly identify two layers of processes in the colonial period vis-à-vis the tribal population. First, through the census, the colonial state formally created a distinct category of 'tribes'. The meaning and features of the 'tribes' had been changed during different censuses. However, primitive and isolated lifestyles and animism (a different pattern of worship than Hinduism) were regarded as key features to define tribes. Indeed, even before the inclusion of the category of tribe in the census, the colonial administration enacted the Scheduled Districts Act in 1874. Through this Act, the idea of two kinds of tribal areas emerged: in the first kind of area, tribal people lived in total isolation from the rest of the country, and in the second kind, the tribal population was partially attached to the 'mainstream' society. The colonial rulers made their policies on this understanding. Finally, they named these areas as 'Excluded Areas' (for the northeastern part) and 'Partially Excluded Areas' (for the many tribal areas of the rest of the country) through the Government of India Act, 1935. To establish this kind of system, colonial rulers used the argument of 'tribal welfare'. This system helped them enormously to establish their control in these areas. They, however, also systematically criminalized many tribal groups, who were included in the category of 'criminal' tribes. The colonial mindset played an essential role in this process and colonial administration was convinced that tribes of certain geographical conditions had 'criminal' tendencies (Choubey, 2014b, 2015a).

Second, to enhance their imperial interests, they tried to establish their monopoly over forests. For this purpose, they used the principle of 'eminent domain' (i.e., the principle of state's sovereignty for all lands coming within its geographical area). They established a Forest Department (FD) in 1864. Subsequently, they enacted the Forest Act, 1865, and to overcome the deficiencies of this Act, a new law, the Indian Forest Act, 1878, was enacted. In 1927, they made specific changes to the 1878 Forest Act, and it came to be known as the Forest Act of 1927. Of its 84 clauses, 81 clauses were taken from the 1878 Forest Act. Through these Acts, colonial rulers tried to establish their dominance over forests and their resources (Choubey, 2015a; Gadgil & Guha, 1992, pp. 123–134). There was a provision in the Forest Act of 1878 that after declaring an area as 'forest', the property rights of forest-dwelling people would be recognized. However, those claiming their rights needed to present written proof in favour of their claims. If they could not give this kind of proof, forest officials declared them 'encroachers' of forest land. In making new 'forests', local people's rights were not appropriately settled in various places. Thus, they lost their land rights and became dependent on their area's forest officers' whims. Through this Act, the customary rights of local communities on forests and their resources became 'concessions', dependent on the whims of FD's local authority (Gadgil & Guha, 1992; Singh, 1986).

In the beginning, the Britishers exploited forests for the ships of their naval forces and later for railway sleepers. Later, they increased the exploitation of forests to get more profit. However, it was not an entirely one-sided process, and tribes revolted against the arbitrary intrusion of colonial forces. Due to these revolts, the Britishers made specific laws and gave some rights to local communities. The Chota Nagpur Tenancy Act (CNTA), 1908, is an example of such laws. The fundamental purpose of the CNTA was to pacify the effects of Birsa Munda's revolt. The CNTA, apart from other things, made provision that the land of tribals could not be transferred to non-tribals. In Bastar, after the 1910 tribal revolt, the Britishers reduced reserved forest areas (Choubey, 2015a; Gadgil & Guha, 1992; Sundar, 1997, pp. 135–155, 2009).

The colonial rule prepared a framework for categorizing tribes and governance of tribal areas and forest land, which impacted the post-colonial thinking about tribal issues.

Indian Constitution and Tribal Life

The Constituent Assembly members accepted the need to preserve the uniqueness of tribal culture and their ways of life. However, they also accepted integrating tribes into Indian society while preserving their cultural uniqueness. As a member of the Constituent Assembly, tribal leader Jaipal Singh Munda raised the question of Adivasi identity and their rights on land and resources of tribal areas (see Box 15.1).

Box 15.1 Jaipal Singh Munda (1903–70)

Jaipal Singh Munda was a famous tribal leader and a member of the Indian Constituent Assembly. Before joining politics, he was a famous hockey player, and in the 1928 Olympics, held in Amsterdam, he was the captain of the Indian hockey team. Munda became active in politics in 1938–39 and became the president of Adivasi Mahasabha in 1939. In 1948, he formed the Jharkhand Party and played a crucial role in the Constituent Assembly. He raised the concerns of tribal communities and emphasized the need to recognize cultural and economic rights. Later, he intensified the struggle for a separate state of Jharkhand for the Adivasis. His conception of Jharkhand was much broader than the present-day Jharkhand and included the tribal areas of many states. He joined the Congress after the 1963 election to fulfil the dream of a separate state for the Adivasis, though he could not succeed in this endeavour. A week before his death, he expressed the desire to leave the Congress and revive the Jharkhand Party to struggle for a separate Adivasis state. For the Adivasis, Jaipal Singh Munda is an important figure because he emphatically expressed tribals' economic and cultural autonomy within and outside the Constituent Assembly.

The Indian Constitution gives tribal people all fundamental rights as India's citizens, but it also gives them some specific rights to ensure their socio-economic and cultural security (see Box 15.2).

Box 15.2 Key Provisions for the STs in the Indian Constitution

The Indian Constitution includes the provision of their statutory recognition as STs (Article 342) by the president's approval after consultation with the governor of the concerned state and the parliament. It can also include or exclude any tribal community from the list of STs. Indeed, the STs of India (and some other groups, which are not part of this category) have adopted the word Adivasi (original inhabitant) to express and assert their identity, which is very close to indigenous people's idea. The Constitution also provides proportional representation in the Lok Sabha and state legislative assemblies (Articles 330 and 332, respectively), and 47 Lok Sabha seats are reserved for the STs. It

makes provision to restrict ordinary citizens' rights to settle in tribal areas and acquire property there (Article 19(5)). There is a provision for reservation in jobs and appointments for the STs (Articles 16(4) and 335). In the Directive Principles of the Constitution, there is a provision regarding promoting the weaker section by including the educational and economic interests of the tribes. Also, there are special provisions for the tribal people in the Fifth and Sixth Schedules of the Constitution, which will be discussed separately later in the chapter. Article 338A of the Constitution has a provision for the National Commission for Scheduled Tribes. This provision was made after the 89th Constitutional Amendment; earlier, there was a united commission for both the SCs and the STs. This Commission has the power to investigate and monitor all matters relating to the safeguards provided to the STs under the Constitution. According to Article 339, the president can, anytime or expiration of 10 years after the commencement of the Constitution, appoint a commission to report on the administration of the Scheduled Areas and the welfare of the STs (Constitution of India, 2008).

A total of 693 communities are included in the list of STs, and many communities are still demanding their inclusion in this list. However, there are no clear criteria to include a particular community in the STs, which has led to the exclusion of many communities from the category. It should also be noted that the Indian Constitution has accepted the validity of the Forest Act of 1927 and the concept of 'eminent domain'. Article 31A, Subsection 2a(iii) has recognized that colonial forest laws would affect independent India (Constitution of India, 2008, p. 20). Another crucial point is that land reforms, though minimally implemented in the country's various parts, were not implemented in the forest areas. According to the Forest Policy of 1952, the state should use the forests for national development. The policy underlined that no village could claim the ownership of natural resources based on its location near that forest (Government of India, 1952). Although Nehru underlined the importance of the policy of 'Panchsheel' for the Adivasis, in most cases, the interests of the tribal communities were overlooked and violated by the Indian state. Indeed, the extraction of forest resources for the 'national development' and later on, demarcation of huge forest areas as Protected Areas (PAs), including National Parks (NPs), tiger reserves and so on, led to the displacement of thousands of tribal families. Moreover, even if they were not displaced, they were forced to face many restrictions in their day-to-day life.

Box 15.3 Panchsheel

In 1960, Jawaharlal Nehru formulated the following five principles for the policy to be pursued vis-à-vis the tribals:

1. People should develop along the lines of their genius, and the imposition of alien values should be avoided.
2. Tribal rights in the land forest should be respected.
3. Teams of tribals should be trained in the work of administration and development.
4. Tribal areas should not be over administered or overwhelmed with a multiplicity of schemes.
5. Results should be judged not by statistics or the amount of money spent but by the character that is evolved.

Virginius Xaxa (2005) argues that Nehru's Panchsheel reaffirms the points already present in the Sixth Schedule of the Indian Constitution. Also, he criticizes Nehru for not making these ideas as basic pillars of the government's policies.

Sixth Schedule: Key Provisions and Experiences

The colonial rulers administratively termed the many hilly tracts of the northeast as 'wholly excluded areas'. The different ethnic communities also claimed autonomy from the future Indian nation state through various colonial administration representations. The Constituent Assembly of India set up the Advisory Committee on Fundamental Rights and Minority Rights, which formed two subcommittees to consider the tribals of northeast India and other parts of India, respectively. Gopinath Bordoloi was the president of a subcommittee formed to consider the situation of tribal and excluded areas of the Northeast Frontier and recommend a proper system for their governance. This subcommittee was known as the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee, which tried to balance the 'political' autonomy of local tribal communities and integrate them with other areas of the country. The Sixth Schedule applies to the specific areas of the states of Assam, Meghalaya, Tripura and Mizoram. The Constitution describes these areas as 'tribal areas'.

The Sixth Schedule makes a provision for creating Autonomous District Councils (ADCs). It also provides that if there are different STs in an autonomous district, the governor of the state, through public notification, may divide the area or areas inhabited by them in autonomous regions. Paragraph 4, Sub-paragraph 4 of the Sixth Schedule, gives the executive and

legislative functions of the district and regional councils. In Paragraph 2, Subparagraph 4, the Sixth Schedule vested the administration of justice in the district and regional councils. It gives them the power to make rules regulating the constitution of village councils and courts. In addition, they exercise the powers and the procedure to be followed by an appellate body above them. Consequently, district councils formulate their own rules for administering justice within the limits of governor's rules.

The Sixth Schedule of the Constitution gives the district councils legislative powers on the following subjects: (a) the allotment, occupation or use, or the setting apart, of land, other than any land which is a state reserve forest for agriculture, grazing and other purposes in the interests of the inhabitants of any village, subject to the Assam government's power to acquire land for public purposes; (b) the management of unreserved forests; (c) the use of any canal or watercourse for agricultural purpose; (d) the regulation of shifting cultivation; (e) the establishment of village and town committees; (f) the appointment or succession of chiefs or headmen; (g) marriage and (h) social customs. Since the social customs have come under the district and regional councils' powers, traditional community organizations have turned into a subordinate of the district council. Furthermore, the appointment and succession of chiefs became the power of the district council (Chaube, 1973; Constitution of India, 2008; Government of India, 2014).

The district council's executive powers extend to the construction and management of primary schools, markets, cattle pounds, ferries, fisheries, roads and waterways in the district and the prescription of the medium and manner of primary education. It has no legislative or regulatory power over these subjects. It could set up village councils or village courts and appellate courts to trial cases between parties, all of whom belong to the STs of the areas but are not involved in offenses punishable by death, transportation for life or imprisonment for not less than five years. Regional councils could also be set up within the autonomous district; they would also have the same powers, excluding the district council's powers in those respects. There are, however, many issues related to jurisdiction and revenue, which create a situation of conflict between regional councils and district councils. The Sixth Schedule's provisions have, to some extent, satisfied the political aspirations of many local communities in northeast India.

There have been some limitations on the working of ADCs: First, under the Sixth Schedule, a maximum of one-fourth of the district council could be nominated by the state government. The purpose of this provision is to provide representation to minorities. This provision, however, was frequently misused for narrow political gains. For example, in the late 1970s, the Congress formed the Mizo District Council Committee with two nominated members. Second, there are ample examples where the district councils were not taken into confidence in the development planning within their boundaries. Third, minorities always feel unsafe and marginalized within the jurisdiction of district councils because most community members generally

work according to the majority community's wishes. Fourth, district councils also resist necessary reforms in social customs, and in this sense, they work as a protector of conservative outlook in these societies. Fifth, S. K. Chaube (1973, p. 108) has argued an evident paradox of the district councils' working. Their attention was diverted to mini-states' politics and pretensions.

However, there is no doubt that the provisions of the Sixth Schedule have been desirable to different tribal organizations of other parts of the country. The supporters of this Schedule have been arguing that it gives local communities autonomous group rights to live their life according to their customs, manages their socio-economic life and prevents outside intervention in their resources, including forest resources. Like Adivasi Mahasabha of Bastar, many organizations have been demanding the Sixth Schedule status for the whole Bastar area. Though the Sixth Schedule has not achieved its full potential, it has still successfully created an autonomous space for tribal communities.

Fifth Schedule and Its Experiences

As mentioned, the Constituent Assembly of India set up the Advisory Committee on Fundamental Rights and Minority Rights, which formed two subcommittees to consider the tribals of northeast India and other parts of India, respectively. The subcommittee, which considered all other parts except northeast, was headed by A. V. Thakkar. The Thakkar Subcommittee recommended that the cultures of these tribal communities be protected, but they should also be integrated with the larger society. The basic philosophy of the provisions of the Fifth Schedule is to protect tribal communities from unhindered external intervention by non-tribal people and to ensure their integration with the mainstream society.

The Constitution describes the areas coming under the Fifth Schedule as Scheduled Areas (SAs), and the president may by order declare any area as SAs. Clause 2 of Para 6 of the Fifth Schedule provides that the president may at any time (a) direct that whole or any specified part of SA shall cease to be SA or part of such area and (b) increase the area of any SA in a state, after consultation with the governor of that state. The following states have SAs: Jharkhand, Chhattisgarh, Madhya Pradesh, Rajasthan, Andhra Pradesh, Telangana, Odisha, West Bengal, Maharashtra, Himachal Pradesh and Gujarat.

There are many critical provisions for protecting the interests of tribals in the Fifth Schedule Areas. First, according to Clause 5(1) of the Fifth Schedule, the governors of states can deny the implementation of laws passed by the Parliament or the Legislative Assembly of any state, or the governor of a state can direct that these laws can be implemented in SAs only after due amendments (Constitution of India, 2008, pp. 254–255). Second, the governor of SAs must submit a report annually or whenever required to the president regarding the administration of these areas. Then the union government

may give directions to them about concerning issues. Third, according to the provisions of the Fifth Schedule, a Tribal Advisory Committee (TAC) would be established in all states having SAs. The president can directly establish them in states with no SAs but a substantial population of STs. The core task of TAC is to advise on such matters about the welfare and advancement of the STs as may be referred to them by the governor. Fourth, the governor has the power to make regulations after consultation with TAC for the 'peace and good governance in the SAs, to prohibit or restrict the transfer of land by or among members of STs in the SA, to regulate the allotment of land to the members of STs in such areas and to regulate the business of moneylending. Fifth, the governor can amend any existing Act of the Parliament or State Legislative Assembly with the president's assent.

Indeed, the provisions of the Fifth Schedule have never been thoughtfully implemented and remained showpieces in the Constitution. In addition, in the history of independent India, no governor ever used these constitutional provisions (Sharma, 2010). On the one hand, this has resulted in the imposition of all kinds of laws in the SAs, on the other, the Indian state has exploited the resources of these areas for 'development' purposes, which has created severe problems of displacement and dispossession of rights for the tribals of SAs. The governor's annual report turned into a ritual, and due to control by the ruling party of the state, the TAC has not been able to present a strong criticism of state policies. Indeed, the Fifth Schedule's provisions have been overlooked and violated, which has resulted in the social, economic and cultural deprivation of tribal communities (Choubey, 2014b).

PESA: A Radical Law for Fifth Schedule Areas

As evident from the earlier-mentioned analysis, the provisions of the Fifth Schedule have been blatantly and deliberately violated or overlooked by the different state governments. However, a new kind of consciousness about rights emerged in these areas due to the democratization and mobilization of grassroots organizations in the 1970s, particularly after the Emergency. Many grassroots organizations started their active work in these areas and contested the imposed 'development' model. The Chipko Andolan, which was started in 1973, and the Narmada Bachao Andolan of the 1980s were prominent examples of this type of struggle. To describe these activities, Rajni Kothari (1984) has used the term 'non-party political process' (for Narmada Bachao Andolan and Chipko Andolan, see Baviskar, 1995; Guha, 1989, respectively), because they started their work outside party politics. The Maoists also started their activities more systematically in forest areas around 1980, and their activities spread in many forest areas after that. It played an essential role in making forest communities more conscious of their forest land rights and resources (Navlakha, 2012; Shankar, 1999). The continuous dispossession of forest-dwelling communities also played the

role of a critical catalyst (discussed in detail in the next section of the chapter). All these factors made a clear impact on the forest policy of the Indian state, and the 1988 Forest Policy of the Government of India made a fundamental change in its previous approach (Government of India, 1988). It underlined that local communities should be given an essential role in forest management.

In 1992, the Parliament passed the 73rd and 74th Constitutional Amendments to give the Panchayati Raj and municipalities constitutional status, and they came into effect in 1993. It was mentioned in these amendments that the Parliament would pass a separate law for Fifth Schedule Areas, which would be sensitive to the local conditions of these areas (Article 243 (M)(b); Constitution of India, 2008, p. 126). Though the Constitution mentioned the need for a separate law for the extension of the provisions of the 73rd Constitutional Amendment, neither the central government nor any state government initiated the process to follow this constitutional provision. However, many states with SAs started the process of the election of panchayats without considering the actual constitutional mechanism.

Many grassroots tribal organizations, particularly the Bharat Jan Andolan, an organization formed by B. D. Sharma on 2 November 1991, worked hard to mobilize tribals in favour of separate Panchayati Raj law for Fifth Schedule Areas. Due to their constant mobilization, the Government of India formed a committee in June 1994 to formulate a separate law for decentralization in Fifth Schedule Areas. Dileep Singh Bhuria headed this committee, and it submitted its report in January 1995. The tribal organizations pressured the government to pass a law based on Bhuria Committee's recommendation. Finally, the Parliament passed the Panchayats (Extension to the Scheduled Areas) Act (PESA) on 24 December 1996. This law was termed *hamara kanoon* (our law) by the tribals in many parts of the SAs (Choubey, 2014b, 2016; Sharma, 1998).

The PESA presents a framework of *gaon ganrajya* (village republic/self-rule) for the SAs, and it has often been described as a 'Constitution within Constitution'. The uniqueness of this law is that it attempts to bring together two entirely different worlds in a single frame: one is a simple system of tribal communities governed by their respective customs and traditions, another is the formal system of the state governed exclusively by law (Dandekar & Choudhury, 2010, p. 5).

The PESA envisages the *gram sabha* as the basic unit of Adivasis' community life, defined as a habitation or a group of habitations or a hamlet comprising a community, managing its affairs by following traditions and customs and all adult people are members of a *gram sabha* (Section 4(b)(c); Government of India, 1996). It directs the state government that the Panchayat Act for SAs shall be in consonance with customary laws, social and religious practices, and traditional management practices of resources (Section 4(a); Government of India, 1996). The PESA makes the role of

gram sabha very extensive: it is competent to preserve the traditions, customs, cultural identity, community resources, and the traditional mode of dispute resolution (Section 4(d); Government of India, 1996). Its approval is necessary to implement various social and economic development plans taken up by the panchayat for implementation at the village level. It has the right to identify or select the persons for the poverty alleviation programme (Sections 4(e) and 4(f); Government of India, 1996). The *gram sabha* or panchayat at the appropriate level would be consulted before the land acquisition; its prior recommendation would be necessary for any grant of mining of minor minerals, and it has the power to prevent the alienation of the land in SAs and take appropriate action to restore any unlawfully alienated land to an ST. The *gram sabha* or panchayat at the appropriate level has ownership over Minor Forest Produce (MFP); power to enforce prohibition, or to regulate or restrict the sale and consumption of any intoxicant; control over moneylending and institutions and functionaries in all social sectors (Sections 4(i), 4(j), 4(k), 4(l) and 4(m); Government of India, 1996). It gives reservation to all groups mentioned in the Constitution according to their proportion in the panchayat and underlines that the reservation for the STs would not be less than one half of the total seats and all seats of chairpersons at all levels would be reserved for the STs (Section 4(g); Government of India, 1996).

In many states, the rights of the *gram sabhas* have been made less influential by state level PESA laws passed after the enactment of central PESA. For example, according to Section 4(i) of the central PESA, the *gram sabha* or panchayat at the appropriate level shall be consulted before acquiring land for development projects and before the resettlement or rehabilitation of affected persons in SAs. The Andhra Pradesh Act, however, has made the provisions for consulting the *mandal* (block) parishad, the Jharkhand Act has no provision in this regard, the Gujarat Act provides that taluka panchayats be consulted and the Odisha Act says that the district panchayat should be consulted before acquiring land. Only Chhattisgarh and Madhya Pradesh have made provisions that before acquiring land for development projects, the *gram sabha* will be consulted.

The experience of the implementation of the PESA has been very gloomy. In some states, elections were conducted based on the PESA, and the STs got representation at the panchayat level. However, its more crucial provisions have been avoided or rampantly violated. The provision of PESA regarding the consultation with *gram sabha* on land acquisition and rehabilitation has proved to be a significant obstacle for the corporate houses because most of the time, tribals, through the *gram sabhas*, have refused to give their lands for 'development' work. At those places where the *gram sabhas* were opposing land acquisition, the corporate houses, with the administration's active help, tried to create a façade regarding the whole process of consultation (Dandekar & Choudhury, 2010, pp. 6–8).

The PESA has been indiscriminately violated in the name of the military campaign against left-wing extremism. One crucial example of this is the Salwa Judum campaign in Chhattisgarh. In the name of controlling the Maoists, the Chhattisgarh government armed one section of the tribal people and compelled the tribals of more than 640 villages to shift in camps. Due to the terror of Salwa Judum, thousands of people ran away into the forests of Andhra Pradesh (Sundar, 2006, 2016). In this process, no state authorities ever tried to know the wishes of the *gram sabha*, which was a clear violation of the PESA.

The strong non-ST groups and the officials of different departments of the government, particularly the FD, violate provisions of the PESA to serve their interests in the form of control over government funds or forest resources. Though it has been welcomed as a revolutionary law, many scholars criticized the PESA for romanticizing the role of *gram sabhas*. For instance, according to Nandini Sundar, the concept of Adivasi society that the PESA embodies is essentially a static one. This society has somehow survived colonialism and capitalism and retains strong community ties at the hamlet level (Sundar, 2009, p. 201). The PESA makes a provision for *gram sabha* autonomy, but there is no provision to ensure non-ST minority groups' interests within a village. All posts of the head of panchayats are reserved for the STs, which is detrimental for the political aspiration and mobility of non-ST groups, particularly the Dalits.

However, despite many internal contradictions and drawbacks in its implementation, this law has enormously created a sense of empowerment in the tribal communities of Fifth Schedule Areas. They are not only using this law to assert the autonomy of the *gram sabhas*, but they have been using this law to oppose ecologically harmful mining in their areas. Indeed, in many areas, tribal villages have established *shilalekh* (writing on a big piece of stone) and mentioned the key provisions of the PESA. In this sense, the PESA has played a critical role in making tribal people in the Fifth Schedule Areas more aware of their rights (Choubey, 2015b, 2015c).

It should be noted that the violation of the PESA continued in the post-2014 general election era because like previous governments the Modi Government also focused on the same kind of economic and development policies, which are primarily based on extraction of the natural resources. For such policies, laws like Chhotanagpur Tenancy Act (CNTA) and PESA are obstacles in the way of the expansion of developmental measures. However, in many tribal areas of Jharkhand and Chhattisgarh a Pathalghadi movement emerged in 2017. In this movement stone inscriptions of the key tribal rights given by the Constitution and the sections of the PESA were established in different villages, and the villagers declared that the government officials could not enter or do any kind of work without the permission of the *gram sabha* (Roy & Singh, 2022). Though this movement was curbed, but it underlined that the tribal people are highly dissatisfied with the attitude of the Government on the issues related to their life and livelihood.

The Forest Rights Act: Main Provisions and Experiences

The problems of forest-dwelling communities have increased after Independence. Many new areas were made 'forest', but the right of the people, who were living there from time immemorial or from many generations was not settled. It led to the extension of the FD and its controlling power on the lives of local communities. Forests were hugely exploited in the name of 'national development'. The post-colonial Indian governments continued the colonial policy of 'scientific forestry'. Through this policy, industry-friendly trees were planted at the cost of mixed forests, which caused enormous disadvantages for both forests and wildlife. After 1970, the Indian state made several laws to improve the situation of wildlife. These laws increased the control of the state over the lives of forest-dwelling communities (Choubey, 2015a; Gadgil & Guha, 1992, 1995; Pathak, 1994).

In 1972, the parliament passed the Wildlife (Protection) Act, which has given the state powers to create National Parks (NPs) and sanctuaries. It restricted human activities in these areas, especially in NPs, and made a provision that people residing in the NPs should be relocated. The parliament passed the Forest Conservation Act in 1980, which, apart from other things, clearly underlined that no forest land would be diverted for non-forest use (Government of India, 1972, 1980). The irony is that these laws have been used to restrict and control the activities of local communities; however, their other provisions were not implemented properly. For example, very few villages of the NPs were relocated. It should also be noted that for the sake of 'development' and fulfilling the interest of corporate capital, forest lands were hugely diverted for non-forest uses. Due to the pressure of many grassroots movement mentioned in the previous section, the government presented a new forest policy in 1988, which mentioned the need to involve local communities in the activities of the FD. The government started the Joint Forest Management (JFM) programme in 1990, which was based on the basic philosophy of the 1988 Forest Policy. The idea behind JFM was to increase the cooperation between FD and local communities about the issues related to forest management. It was meant to reverse the earlier hostility between villagers and forest staff and enable villagers to manage their resources. Nevertheless, FD was not ready to give its power to local communities. It used JFM to divide village communities and, hence, dominated these communities (CSD, 2004; Jeffery & Sundar, 1999). Indeed, JFM offered nothing concrete to solve the problems faced by forest-dwelling communities.

Due to the earlier-mentioned developments, the forest-dwelling communities were facing some serious problems related to their very existence and livelihood. Lakhs of people were compelled to live as 'encroachers' of forest land due to the non-settlement of their rights on forest land. There were thousands of forest villages in forest areas and the people of these villages had been living without minimal citizenship rights due to the non-recognition of their forest land rights (CSD, 2004, p. 18; Government of India, 1990).

Tribal people, living in forest areas or villages near forest areas, had no legal rights over forest produces. They were dependent on the arbitrary actions of FD officials. As mentioned earlier, FD officials were not ready to give them the status of equal partners. It is the fundamental reason for the failure of JFM, a programme started by the Indian government to increase the role of local communities in the protection of forests.

During our discussion on the PESA, it was mentioned that in the late 1970s, a consciousness emerged at the grassroots level about local communities' rights over forests and other natural resources. Many movements were organized for this purpose, and PESA's enactment was also a result of such a movement. The PESA, however, was related to Fifth Schedule Areas, and it was not related to the 'encroacher' status of the many forest-dwelling communities. Many such communities were facing the problem of eviction by FD. Many grassroots tribal organizations collectively attempted to enact a law to resolve the existential problems of the so-called 'encroachers' of forest land and demanded the recognition of forest-dwelling communities' rights over forest land and its resources.

The Forest Rights Act (FRA), enacted in 2006, was essentially a result of an extensive movement by tribal organizations of the different tribal areas of the country to ensure the rights of forest-dwelling communities over forest land and its resources. It gives many rights to forest-dwelling STs and Other Traditional Forest Dwellers (OTFDs). The following are some necessary rights given to forest-dwelling communities by the FRA. First, it recognizes that every nuclear ST and OTFD family would get 'patta' of maximum 4 hectares of 'encroached' forest land and makes a provision for the 'joint patta' for both husband and wife. The cut-off date for the STs was set as 13 December 2005, when the Forest Rights Bill was introduced in Parliament. According to the FRA, OTFDs must prove that they have been residing or dependent on forest land for the last three generations and 75 years from 13 December 2005. Second, it gives these groups rights to non-timber forest products and the right to manage the forest. Third, it accepts the right to habitat and habitation for Primitive Tribal Groups. Fourth, Section 5 of the FRA is related to the duties of the holders of forest rights. It makes right holders empowered to protect the wildlife, forest, and biodiversity (Choubey, 2014a, 2014b, 2015a, pp. 116–180; Government of India, 2007). Before the enactment of the FRA, the process of using forest land for non-forest purposes was entirely centralized. According to the Forest Conservation Act, 1980, the Forest Advisory Committee can take a decision in this context, but there is no representation from local communities. After the enactment of the FRA, the 'prior informed consent' of the *gram sabha* has become necessary. Fifth, the FRA has made a crucial provision about PAs (NPs, sanctuaries, tiger reserves, and so on). According to its provisions, a participatory committee of wildlife experts, members of non-governmental organizations and representatives of the local community can decide whether a particular space of PAs should be human-less or not. Suppose the Committee would give its report in favour of

making that space an inviolable space. In that case, that area will be declared as a 'Critical Wildlife Habitat' (CWH). The communities living in that area will be relocated, and the government would provide them an alternative place to resettle (Government of India, 2007).

It should be noted that the PESA is only for Fifth Schedule Areas, but the FRA is for the forest areas of the whole country. The PESA is related to the village community life in the Fifth Schedule Areas and gives them autonomy, whereas the FRA is related to forest land and its resources. Both these laws give local communities significant powers in matters related to land acquisition or forest land diversion. The implementation of the FRA, however, has not been satisfactory. The private property rights over the so-called 'encroached' forest land have been primarily implemented, and they have ensured stability in the lives of many families of forest-dwelling communities, particularly the ST families. The OTFD families have been facing many problems to provide the necessary proof of living on a particular forest land for three generations or 75 years. So in many places, OTFDs could not get rights for forest land (Choubey, 2015a). Interestingly, FRA's community rights have largely been unimplemented or partially implemented because they challenge FD's dominance. So the FD created many obstacles in their implementation. Third, though the FRA talks about making CWH in NPs and other PAs to create human-less space for animals, the FD violated this provision. In many cases, it tried to displace tribals without settling their rights or taking their consent or without any scientific study (Choubey, 2015a, 2017).

It is a fact that there are many limitations of the FRA and it is not implemented correctly. However, many examples underline that local communities have used it (and the PESA in the Fifth Schedule Areas) to assert their rights over forest land and its resources. The most prominent example is related to the Supreme Court judgment (2013) in the Niyamgiri case. In this case, the Dongria Kondh tribal community opposed the mining of the Niyamgiri mountain by claiming that the mountain is a sacred place for them. They also claimed that as per the provisions of the PESA and the FRA, the government cannot approve any proposal of mining without their consent for doing the same. In its judgment, the Supreme Court directed the state government on the basis of the provisions of the PESA and the FRA to consult with the *gram sabha* of concerned villages before permitting mining on Niyamgiri hills. In their meetings, all *gram sabhas* rejected the proposal of mining. There are many such examples, yet, undoubtedly, the forest-dwelling communities have not received their rights as promised in the FRA. They are still struggling for the proper implementation of the FRA in a different part of the country (see Choubey, 2015a, 2021). A key development in post-2014 general election is that the Modi Government tried to make the FRA less effective through amendments in the 1927 Indian Forest Act in 2019 (Mohanty, 2019). However, due to the opposition of many tribal organization, including the ABVKA it did not move forward in this direction. Indeed,

this underlines that the proper implementation of the FRA has not been in the agenda of the Modi Government (NEWSClICK, 2019)

Development Initiatives and Miscellaneous Challenges Faced by Tribals

From the earlier discussion, it is evident that post-Independence India followed a path that was neither isolationist nor assimilationist. On the one hand, it tried to integrate tribes into Indian society, on the other, it also attempted to safeguard their distinct social and cultural identity. Virginius Xaxa termed it as a discourse of 'integration – midway between isolation and assimilation' (Xaxa, 2012). Soon after Independence, the government started block-level multipurpose development projects in tribal areas. These were a supplement to community development projects for the comprehensive development of rural areas. Later, the Verrier Elwin Committee (1960) reviewed these projects and recommended reducing the number of projects. Based on its recommendation, these activities mainly concentrated on four activities, that is, economic development, education, health and communication.

However, a significant change occurred during the Fifth Five-Year Plan (started in 1974): the Tribal Sub-Plan (TSP) and the Integrated Tribal Development Project (ITDP) were introduced. The Plan had a different budgetary head for TSP and ITDP. This strategy's main objective was to create a clear path to end existing exploitation in the tribal areas and enhance development. It recommended the following programmes: integrated credit-cum-marketing services, marketing of agricultural products and MFP, supply of essential consumer commodities, redemption of past debts through legislative and executive orders and so on. It also emphasized the prevention of land alienation, restoration of alienated land, abolition of bonded labour, review of excise and forest policies and so on. It also underlined the need to prioritize land reforms and irrigation and improve cultivation methods.

TSP's main components were the ITDP, modified area development approach (MADA), clusters and primitive tribal groups. Each ITDP comprised blocks, talukas or the whole district with 50 per cent or more tribal population. The MADA areas comprise smaller pockets of tribal concentration, having a minimum total population of 10,000 with the ST population of 50 per cent or more. A total of 74 tribes were identified who required special care for their development at the planning and implementation levels (Xaxa, 2012).

Though the TSP has ensured a separate budgetary allocation for the tribal areas, it has not been able to bring about any perceptible improvement in these areas. The resources allocated for tribal development have been far from adequate. With this budgetary allocation, the process of expropriation of tribal resources also continued, which led to the dispossession of tribal people in many areas of the country, particularly those living near a forest and dependent on its land and resources. We can find that compared

to the country's overall situation, the condition of tribal areas is less than satisfactory.

There have been many explanations for the lack of development in tribal areas. First, it is argued that programmes made for them generally do not reach them due to their geographical isolation. Second, it has been argued that, generally, there has been inadequate allocation for tribal development. Third, even in the case of better allocation of funds, the ineffective implementation of programmes due to lack of infrastructure and corruption at the administrative level has led to the continuous backwardness of tribal areas. Fourth, the tribal people do not have actual ownership over their resources because of which they could not get the benefit of the mining or extraction of resources from their areas. As discussed in previous sections, the laws such as the PESA and the FRA, which provide certain rights over forest land and its resources, have not been appropriately implemented. Indeed, post-Independence India's whole development model has led to the displacement of tribal people in many areas. According to the studies conducted about the displaced people in 13 states of India, out of all the displaced people, the proportion of the STs (i.e., 30.7 per cent) was much higher than their proportion in India's population (Government of India, 2014, p. 259). Fifth, many supporters of the modern idea of development based on industrialization and resource extraction have argued that opposition by tribal communities to 'development' measures (i.e., big industries, mining and so on) is responsible for their inadequate development. It is argued that their traditional way of living is responsible for their backwardness. However, it is also a fact that with mining and industrialization, many persons from outside came in the urban or semi-urban places of the tribal areas, resulting in depriving tribals of the fruit of development came in these areas.

It is important to note that different tribal communities face various problems related to violence, under-representation, social stigma and so on. Following are some of the crucial challenges faced by various tribal communities.

First, many tribal communities are part of the ST category in one state but are excluded from this category in other parts of the country. This situation makes many communities vulnerable to different kinds of exclusions from state policies.

Second, de-notified tribes (DNTs) still face discrimination and are still suspected of being 'habitual criminals' in many countries.

Box 15.4 De-notified, Nomadic and Semi-nomadic Tribes

The recent history of DNTs can be traced back to the Criminal Tribes Acts (CTA) of 1871 and 1911. Between 150 and 200 communities were deemed to be 'hereditary criminals', subject to surveillance,

confinement and gross discrimination. The CTA was removed from the statute books in 1952 on the recommendation of the All India Criminal Tribes Inquiry Committee (1949), and since then, 'criminal tribes' came to be known as 'de-notified tribes' instead. Even though the law has been repealed, the identification of these communities as ethnic groups having criminal antecedents continues to this day, leading to everyday discrimination in terms of access to education and jobs, as well as brutal violence by neighbouring communities and police personnel.

Traditionally, de-notified, nomadic and semi-nomadic communities practice a range of occupations and are remarkably internally diverse. Scholars have classified them into four broad categories: (a) pastoralists and hunter-gatherers, mainly shepherds, cowherds and hunters of small game; (b) goods and service nomads, such as blacksmiths, stone workers, weapon makers, salt traders and basket makers; (c) entertainers, including dancers, acrobats, snake charmers, monkey trainers and wrestlers; and (d) religious performers, ascetics, devotional singers, minstrels and astrologers. Hunter-gatherers and pastoralists have been affected by the growing restrictions on access to grazing grounds and forests, the degradation of natural resources and the increasing privatization of common property resources. One major issue that has been raised concerning the de-notified and nomadic communities is the lack of proper enumeration and classification, which has made the planning and implementation of welfare schemes difficult. Some of these communities have been listed as STs, others as Scheduled Castes and Other Backward Classes (Government of India, 2014, pp. 57–59).

Third, in many Maoist-violence-affected areas, tribals have faced violence and counter-violence by the Maoists and state forces. Salwa Judum is an example of such violent displacement of tribals in the name of curbing Maoism in the Bastar area of Chhattisgarh. It was started in 2005 and both the Indian National Congress and the Bharatiya Janata Party supported it. Many states gave arms to thousands of tribal youths to counter the Maoists. This whole process resulted in displacement and killing of thousands of innocent tribals. Later, in 2011, the Supreme Court declared Salwa Judum illegal. However, the tribals in many Maoist-affected areas are still facing continuous violence. In Bastar and other tribal areas, militarization affected the lives of tribals and led to the criminalization of tribal communities. In many Fifth Schedule Areas, the paramilitary forces used the land to establish their camps, and in most of the cases, these camps became permanent (see Dandekar & Choudhury, 2010; Government of India, 2008; Sundar, 2016).

Box 15.5 Particularly Vulnerable Tribal Groups

Certain tribes have been characterized as Particularly Vulnerable Tribal Groups (PVTGs; earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups (although the precise contours of their vulnerability have not been clearly defined). PVTGs, currently including 75 tribal groups, have been identified as such on the basis of the following criteria: (a) forest-dependent livelihoods, (b) pre-agricultural level of existence, (c) stagnant or declining population, (d) low literacy rates and (e) a subsistence-based economy. As per the 2001 Census, these 75 PVTGs had a total population of 2,768,322. The majority of the PVTG population lives in the seven states of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. Odisha has 13 PVTGs, the largest number for any state. The vulnerability of the PVTGs primarily stems from the loss of their traditional livelihoods, habitats and customary resource rights through the gradual exploitative intrusion of the market and state into their areas in the form of industrial projects, conservation efforts, tourism, forest bureaucracy and so on (Government of India, 2014, pp. 59–60).

Fourth, though there is provision for the reservation of seats for the STs in the Lok Sabha and State Legislative Assemblies, one can find their inadequate representation not only in the formal political institution but also in the rank of party leadership. Usually, tribal leaders get assigned to the Ministry of Tribal Affairs, and apart from few regional parties (like Jharkhand Mukti Morcha), they are unable to get a prominent post within the national parties.

Fifth, there are many states where the proportion of the tribal population is very low: Uttarakhand, 2.9 per cent; Kerala, 1.5 per cent; Bihar, 1.3 per cent; Tamil Nadu, 1.1 per cent and Uttar Pradesh, 0.6 per cent. It is challenging for tribals to get representation in these states and impact state machinery through their mobilization. These tribal areas have no special provision (like the Fifth Schedule), so they cannot assert and protect their rights. For example, there is some mobilization in the Sonbhadra area of Uttar Pradesh to extend the Fifth Schedule in the whole Kaimur area (i.e., Sonbhadra and some other districts of Bihar and Jharkhand). However, it has not been done. Similarly, the Bhuria Commission (1995) had recommended enacting a separate law for the urban areas. However, this recommendation has not been implemented yet (Choubey, 2015b). On many occasions, the state governments with Fifth Schedule Areas have changed the legal status of a rural area to urban area to avoid the provisions of the PESA.

Sixth, tribals are also facing imposition of cultural norms by different organizations for the past many decades. From the colonial period onwards, Christian missionaries have been trying to spread the influence of Christianity in tribal areas. From 1952, the Akhil Bharatiya Vanvasi Kalyan Ashram has also started its work in tribal areas. They also try to spread the values and rituals of Hinduism among the tribal people. Indeed, both these organizations have created a danger for the tribal culture and their religious values (Choubey, 2019).

Seventh, the Indian government has created a category of PVTGs. The communities are included in this category based on their forest-dependent livelihood, pre-agricultural level of existence, stagnant and declining population, low literacy rate and subsistence-based economy. Some of them still live as hunter-gatherers, while others indulge in jhum cultivation (shifting cultivation). The critical challenge in the context of these communities is to protect them from the onslaught of 'development' measures, which have posed a grave danger to their habitat and livelihood sources. It is also a conundrum for policymakers whether to leave them in their existing situation or introduce them to the modern lifestyle.

Eighth, a small proportion of the STs is living in urban areas. Many people from the ST category are in administrative services, academics and other white-collar jobs. They are facing discrimination from other dominant castes at the workplace. Although there are important laws (e.g., the Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Act, 1989) and institutions (National Commission for Scheduled Tribes) to protect them, they are still facing discrimination.

Undoubtedly, there are diverse challenges for different tribal communities. To ensure the overall development of tribal communities, it is necessary to weed out these problems. It is obvious that such problems existed before the 2014 general elections, but the Modi Government did not try to resolve these problems, and in many cases, these problems have become more complicated.

Summing Up

Tribals are one of the most marginalized sections of India, and they are facing diverse problems. Though there are many crucial constitutional provisions to protect their rights and ensure their representation, they are still on the margins and facing displacement, violence and continuous marginalization. Indeed, most of the problems related to tribal rights have their genesis before 2014 general elections, but the Modi Government has made them more complex. Rather than ensuring the proper implementation of the laws like PESA and FRA, it has been making attempts to weaken these laws, particularly the FRA. There is a need to ensure better implementation of key constitutional provisions and laws such as the PESA and the FRA, which give them the right to live an autonomous life and ownership over forest land and its resources. It is also imperative to focus on the problems of the tribals who are living in

the urban areas and facing different kinds of exploitation. In other words, there is a need to create a more decentralized structure for the welfare and development of tribal communities.

References

Ambagudia, J., & Xaxa, V. (2020). Situating tribal politics in India. In J. Ambagudia & V. Xaxa (Eds.), *Handbook of tribal politics in India*. Routledge.

Baviskar, A. (1995). *In the belly of the river: Tribal conflict over development in Narmada valley*. Oxford University Press.

Campaign for Survival and Dignity (CSD). (2004). *Endangered symbiosis: Evictions and India's forest communities, report of the Jan Sunwai, July 19–20, 2003*. CSD.

Chaube, S. K. (1973). *Hill politics in Northeast India*. Orient BlackSwan.

Choubey, K. N. (2014a). *The forest rights act and the politics of marginal society*. NMML Occasional Paper: Perspectives in Indian Development (New Series 31). Nehru Memorial Museum and Library.

Choubey, K. N. (2014b). *Law as a site of contestation between state and the margin: A comparative study of the experiences of two progressive laws (PESA and FRA)* [Unpublished Final Report of the Post-Doctoral Project]. Nehru Memorial Museum and Library.

Choubey, K. N. (2015a). *Jungal ki haqdari: Rajneeti aur sangharsh*. CSDS-Vani Prakashan.

Choubey, K. N. (2015b). Enhancing PESA: The unfinished agenda. *Economic & Political Weekly*, *50*(8), 21–23.

Choubey, K. N. (2015c). The public life of a "progressive" law: PESA and gaon ganarajya (village republic). *Studies in Indian Politics*, *3*(2), 247–260.

Choubey, K. N. (2016). The state, tribals and law: The politics behind the enactment of PESA and FRA. *Social Change*, *46*(3), 355–370.

Choubey, K. N. (2017). Turning the tide in forest rights. *Economic & Political Weekly*, *52*(1), 21–23.

Choubey, K. N. (2019). Adivasi jeevan aur vanvasi kalyan ashram. *Paratiman: Samay, Samaj, Sanskriti*, *7*(14), 75–95.

Choubey, K. N. (2021). Forest governance, tribal rights and state: A study of third layer of federal structure in India. In R. Saxena (Ed.), *New dimensions in federal discourse in India* (pp. 106–119). Routledge.

Constituent Assembly. (2008). *Constitution of India* (4th ed.). Central Law Publications.

Dandekar, A., & Choudhury, C. (2010). *PESA, left-wing extremism and governance concerns and challenges in India's tribal districts*. Institute of Rural Management.

Gadgil, M., & Guha, R. (1992). *This fissured land: An ecological history of India*. Oxford University Press.

Gadgil, M., & Guha, R. (1995). *Ecology and equity*. United Nations Research Institute for Social Development.

Government of India. (1952). *Resolution on the national forest policy*. Manager of Publications.

Government of India. (1972). *Wild life (protection) act*. Ministry of Law and Justice.

Government of India. (1980). *Forest (conservation) act*. Ministry of Law and Justice.

Government of India. (1988). *National forest policy*. Ministry of Environment and Forest.

Government of India. (1996). *The provisions of Panchayats (Extension to the scheduled areas) act, 1996, no. 40 of 1996*. GoI.

Government of India. (2007). *Scheduled tribes and other traditional forest dwellers (recognition of forest rights) act, 2006*. Ministry of Law and Justice.

Government of India. (2008). *Development challenges in extremist affected areas: Report of an expert group to Planning Commission (2008)*. Planning Commission of India.

Government of India. (2014, May). *Report of the high level committee on socio-economic, health and educational status of tribal communities of India*. Ministry of Tribal Affairs, Government of India.

Guha, R. (1989). *The unquiet woods: Ecological change and the peasant resistance in the Himalaya*. Oxford University Press.

Jeffery, R., & Sundar, N. (Eds.). (1999). *A new moral economy for India's forest: Discourse of community and participation*. Sage Publications.

Kothari, R. (1984). The non-party political process. *Economic & Political Weekly*, *19*(5), 216–224.

Mohanty, P. (2019, August 7). Draft indian forest (amendment) bill 2019: Arming state to undermine the rights and wellbeing of tribals. *India Today*. Retrieved July 1, 2021, from www.indiatoday.in/news-analysis/story/draft-indian-forest-amendment-bill-2019-arming-state-to-undermine-rights-and-wellbeing-of-tribals-1578054-2019-08-07

Navlakha, G. (2012). *Days and nights in the heartland of rebellion*. Penguin Books.

NEWSCLICK. (2019, September 14). Modi govt's stand on FRA eroding tribal rights. *NEWSCLICK*. Retrieved July 1, 2021, from www.newsclick.in/Modi-Govt-Stand-FRA-Eroding-Tribal-Rights

Pathak, A. (1994). *Contested domains: The state, peasants and forests in contemporary India*. Sage Publications.

Roy, A., & Singh, U. (2022). Pathalgadi movement, self-governance, and the question of "weak statehood". In D. Nubert, H.-J. Lauth, & C. Mohamad-Klotzbach (Eds.), *Local self-governance and the varieties of the statehood: Tensions and cooperations* (pp. 117–137). Springer.

Shankar, P. (1999). *Yeh Jangal Hamara Hai: Dankaranya ke Krantikari Andolan ka Ithihas*. (Translation From Telgu: Pasandi Nirmala, Hindi ed., 2006). New Vistas Publications.

Sharma, B. D. (1998). *The little lights in tiny mud-pots defy 50 years of anti-"panchayat" raj*. Shayog Pustak Kutir.

Sharma, B. D. (2010). *Unbroken history of broken promises: Indian state and the tribal people*. Freedom Press and Sahyog Pustak Kuteer.

Singh, C. (1986). *Common property and common poverty: India's forests, forest dwellers and the law*. Oxford University Press.

Sundar, N. (1997). *Subalterns and sovereigns: An anthropological history of Bastar, 1854–1996*. Oxford University Press.

Sundar, N. (2006). Bastar, Maiosm and Salwa Judum. *Economic and Political Weekly*, *41*(29), 3187–3192.

Sundar, N. (2009). Framing the political imagination: Custom, democracy and citizenship. In N. Sundar (Ed.), *Legal grounds: Natural resources, identity, and the law in Jharkhand* (pp. 188–215). Oxford University Press.

Sundar, N. (2016). *The burning forest: India's war in Bastar*. Juggernaut.

Xaxa, V. (1999). Tribes as indigenous people of India. *Economic & Political Weekly*, *34*(51), 3589–3585.

Xaxa, V. (2005). Politics of language, religion and indentity: Tribes in India. *Economic and Political Weekly*, *40*(13), 1363–1370.

Xaxa, V. (2012). Tribes and development: Retrospect and prospect. In D. Nathan & V. Xaxa (Eds.), *Social exclusion and adverse inclusion: Development and deprivation of Adivasis in India*. Oxford University Press.