

LAND AND FOREST RIGHTS IN NORTH EAST INDIA WITH SPECIAL REFERENCE TO TRIPURA

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Abstract:

Traditional tribal societies of North East India were symbiotically related to the nature. Indigenous ethnic groups, living in this region of India since the pre-historic period were traditionally dependent upon forest resources. Land was livelihood and common forest was the source of food and sustenance for them. Intervention of modern State could not preserve this symbiotic relationship between the human society and nature, rather the State is held responsible for the destruction of such system. State-induced process of modernization led large scale destruction of forest. The modern land right regime based upon individual entitlement upon land and other natural resources ruined the traditional ethnic life-world of the ethnic communities. Development projects required land and therefore the State occupied common land without proper rehabilitation for the displaced people. In the case of Tripura also, the administration whosoever controls it hardly cares for the tribal people and their life-world. Outsiders have been encouraged to settle down permanently in Tripura for the sake of generating higher revenues. As a result, the indigenous people gradually lost their control upon land and natural resources. In this context, this paper argues that statist interventions upon natural resources are/were responsible for the impoverishment of the indigenous people in North East Region in general and Tripura in particular.

Key-words: North East India, Tripura, Common Property Resource (CPR), Symbiotic Relationship, Rights of the Tribal People, Neo Liberal State.

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The tribal people are regarded as ‘the stewards of the global biodiversity’. Since eternity, they have been the ‘keepers of biodiversity’. The territories of the world’s 370 million indigenous peoples cover 24% of land worldwide, and contain 80% of the world’s biodiversity. The indigenous community-based resource management system was basically an informal system that is based on the concept of resource, i.e., livelihood controlled by the community (CPRs), to be used according to its present needs and preserved for posterity. Sharing and equity are its foundations. The principle behind this system is that the resource belongs to the community that includes the present, the past and the future members. So, it has to be treated as renewable, i.e., as a livelihood that has come down from the ancestors to be used according to present needs and preserved for posterity according to ecological imperatives. Such systems existed around land, water and other resources (Fernandes 1995).

But they are in greater danger today. It is mainly due to the rapid changes brought about by the dominant economic model of neo-liberalism. The development models followed to intervene the so-called primitive life style of the tribals are allegedly super-imposed by the colonialists or their compradors. They always favour destructive privatization, commoditization and exploitation of the resources from the Common Property Resources (CPR) maintained and used by the local communities for hundreds of years without any legal or otherwise restrictions.

Individual rights are basic to the formal system of property ownership. This system depends on an individual written ownership document which confers on that person the right to use the property according to his/her will, with no obligation to anyone else unless it goes against the right of another individual. Literacy and access to the formal administrative and legal structures are essential to it. Its first facet is that all natural resources like forests, as well as land with no individual title belong to the State. Its second facet is that the State alone has the right to decide what is a public purpose and deprive even individuals of their assets in its name. Deprivation of livelihood and displacement for development projects result from it.

Tribal societies maintained traditional resource ownership and livelihood pattern that was largely based on a communitarian pattern. They had a relatively harmonious life-style with the natural environment. Some scholars hold that (Xaxa, 2014; 101-111, Fernandes, 1993; 48-69) tribal people had both the ‘existential’ and ‘cultural dependence’ upon the natural environment. The very existence of these people including their food, shelter, livelihood etc used to come from nature. Natural environment was also the source of identity, customs, myths and religious practices of the forest dwelling tribes.

An entirely alien system based on the concept of private property in which the individual, the legalization of natural resources and with profit as its prime motive was imported by the British

Indian colonial regime and imposed on the tribal communities in Northeast India. The Indian Government continued this process after independence in the name of national development. Changing Land laws was basic to the colonial system that was meant to turn India into a supplier of raw material and a captive market for the finished products of the Industrial Revolution. Laws had to be changed to ensure easy land transfer to British plantation and mine owners for producing raw materials. They succeeded in doing so in the plains through the several measures, the first one being the Permanent Settlement 1793.

Similar processes were set in motion after the formal entry of the British into this region with the Anglo-Burmese Yandabu Treaty, 1826. They took control of the Northeast gradually beginning with Assam where they saw its potential for tea and later petroleum and mines. That required massive land acquisition, The colonial regime acquired land for tea in the latter half of the 19th century from the Ahom, Koch, Bodo and others on highly exploitative terms while the main thrust for oil and coal came after 1947 (Jha 1996). Such acquisitions were central to the process of turning the colony into a supplier of capital and raw materials and a captive market for the British finished products. The legal tool they used was the Assam Wasteland Rules 1838. They defined ownership and wasteland in such a manner that any land left uncultivated for a season could be called wasteland and taken over without compensation (Barpujari 1996).

Introduced as a protective measure for the tribals of the North East India, the Sixth Schedule has been superimposed on their tradition. It recognizes community ownership and does not allow non-tribals to acquire land in these areas. However, the administration that is in charge of these areas has an individual orientation. So knowledgeable persons say that even in these areas, land alienation is rampant both to tribals and from tribals to non-tribals. Its main reason is that though on paper any alienation needs the consent of the community, in practice the administration treats the village leader as the owner and negotiates land deals only with him. Secondly, the State bodies introduce commercial crops for which they give subsidies and financial institutions give loans only to individuals, understood as heads of families. In most cases they are men. That lays the foundation of land alienation. Within the tribe it takes the form of land sale or mortgaging to others from the same community, thus sharpening the class divide among them. It has even given rise to absentee landlordism. With the intensification of the commercial processes and globalization, such alienation is likely to grow leading to greater hardships to CPR dependants. Outside the tribe it involves non-tribals taking over land either through mortgage or through encroachment (Fernandes and Pereira 2005). The case of Tripura illustrates the dynamics of land right of the tribal people and the liberal Indian State.

The indigenous people of Tripura constituted the majority of the population till the decolonization of the Sub-Continent. Initially the Royal Administration encouraged the non-tribal people to settle down here. Different historical incidents like the Partition of the Sub-Continent in 1947 led large scale migration of the non-tribal people in Tripura. Nature friendly- symbiotic tribal way of life was ignored in the administrative practices in modern Tripura. Modern period in the history of Tripura was started from the tenure of Maharaja Birchandra Manikya (1862-1896 A.D.). He introduced a number of judicial and administrative reforms and recruited a few trained officials to modernise the administrative structure of the kingdom. Moreover, his zealous drives for Sanskritization led huge amount of expenditure from the state exchequer.

Modernization drives under the aegis of the Manikyas had nothing to do with the development and upliftment of the local tribal people who were largely dependent upon Jhum cultivation, hunting and gathering of forest products from the Common Forests. They were not acquainted with the emerging money-economy due to the nature of their livelihood and also traditional adherence to the barter system of exchange. So, it is true that the so called Sanskritization process upgraded all the Tripuri subjects in the status of the Kshatriya but it tragically denied them from the emerging opportunities to engage themselves in various occupations in money-economy like that of the barbers, cobblers, potters, weavers and many more which were considered as the occupations of the low-caste people in the traditional caste-based non-tribal Indian society.

In 1885 the king of Tripura, Maharaja Birchandra Manikya first adopted some initiatives to establish state-ownership upon forest resources by classifying forest into the 'reserved' and the 'protected' categories. The first ever Act on forest was promulgated in 1886. But the said Act denied the traditional rights of the forest dwellers to collect, gather and appropriate forest resources. In the subsequent year, the king declared jhum cultivation completely prohibited in the forest regions of the kingdom. (Chakraborty, 2004; 96) During the same period forest products from Tripura like fuel, fodder, housing materials, furniture etc. had increasing demands in the adjacent districts of British Bengal. So trade and commerce in those commodities were increasing rapidly in Tripura. The Royal administration encouraged such trade for the sake of revenue. But the pattern of the trade was such that no indigenous people could engage himself/herself as a merchant but as a contingent labourer. They considered such trade-related activities just as a source of their subsidiary occupation. Hence the indigenous people of Tripura could not reap any benefit out of such trade. Rather they lost the valuable Common Forests which was a traditional source of their sustenance. The entire system of forest management initiated a process of wanton falling forest (Bhattacharjee, 1993:5) and thus it helped the process of migration of the outsiders.

Similarly, the revenue administration of the Maharajas of Tripura also led the indigenous people in a state of impoverishment. As an emerging demand of the modernization drives, now the government had to collect more revenues to meet the increasing rate of expenditure in day-to-day administration. But collecting revenues from the jhumias of the then Tripura who happened to be nomadic in their life-style was not possible. Moreover, the land ownership pattern prevalent among the indigenous tribal people of Tripura was communitarian in nature. So the royal administration invented some innovative forms of taxation. Two most famous of them are 1. Ghar-Chukti Kar (family tax) and 2. Ghasuri Kar (tax from the sun grass). Each of the households was compelled to pay the family tax to the local Sardar by a specific deadline failing which the family was tortured and the members were compelled to offer compulsory customary service. Similarly, tax was also collected for gathering sun grass from forest. According to an assessment, family tax and similar other taxes contributed more than 43% of the state revenue share in 1873-74. (Bhattacharjee, 1993) The directions of these taxation models were clearly against the interests of the tribal subjects.

In order to encourage plough cultivation in Tripura to enhance revenue collection, in 1889 the kings introduced a very liberal land tenure system called the jangle abadi lease. Immigrants were invited to clear forest and start cultivation in lieu of a nominal rate of revenue in the initial decade. Such a liberal land tenure system attracted both permanent subjects from the British Bengal and also the ziratia tenants who only migrated for cultivation purpose (Bhattacharjee, 1993:7). However, both of these types of immigration led forest decline and demographic imbalance. Thus, between 1911 and 1921, a large number of plains dwellers, mostly Muslim farmers from what is now Bangladesh, were made to settle in Tripura. The Forest Rule of 1903, declared 3,861 square miles as reserve forest in 1908-07, further diminishing land availability for the tribals in the interior, who were dependent on forest land for their livelihood. Considering the plight of the tribals, orders were issued in 1913 allowing tribals to use forest produce, but this in no way helped to alleviate their problems. The Administration sensed the rising tensions, and, in 1939, 28,490 hectares of land, and in 1941, 505,053 hectares, were reserved for the six tribes of Tripura. However, this left nothing for the remaining 12 tribal communities, once again confirming the infirmity of the King's policies. At this crucial juncture, the first batch of non-tribal refugees entered Tripura in 1941, after widespread communal riots. The King formulated a proper plan for their rehabilitation, constituting a 41 Member Committee to oversee their rehabilitation and settled them in his territories, worsening the land crisis among the tribals. As a result, the indigenous people of Tripura were impoverished further.

Being a political issue due to the influx of non-tribal immigrants, the issues and concerns on the question of land alienation provoked some armed insurrections in early 1950s in the form of Tripura Sangha and Sang Krak movements. So the Government enacted the Tripura Land Revenue and

Reforms Act-1960. Till the enactment of this Act no land survey had been done in the state. Under such circumstances, the above-mentioned Act was promulgated with the following three objectives (Vohra, 2011):

1. To declare the clear titleship of land and record it officially.
2. To stop alienation of tribal land. And
3. To remove various hindrances in the way of agricultural production.

But the Act failed to stop alienation of tribal land. Even after the enactment of this Act alienation of tribal land continues. There are many causes behind the failure of this Act to serve this purpose.

One of the main reasons behind it was the fact that the responsibility of administering the provisions of this Act was provided to the Land Reform Cell of the District Administration. And the District Administration was basically run by the non-tribal officials. So, whenever any such cases came before the Cell, the poor tribal people were victimized.

Secondly, the Act had a provision of restricting any transfer of land owned by the tribal people to the non-tribals. But it was silent about the restoration of the already transferred land. So, it was just a remedy to stop further injustice against the tribals and not a remedial measure to undo the injustice already done against the poor tribals.

Thirdly, most of the tribals being illiterate and not familiar with the formal law did not register their land. The law did not recognize their right over the commons. So the land that was their sustenance and habitat for centuries before the colonial land laws were enacted became state property under the colonial principle of individual ownership. Most of them were not paid compensation for the land taken for it though they had traditional rights over it according to their customary law (Bhaumik 2006)

Fourthly, there are a number of examples that a little amount of indebtedness from the private money lenders resulted into such a big amount which ought to be re-paid by selling their own land. With the introduction of modern life-style, the quantity of indebtedness was increased. So the Tripura Land Revenue and Reforms Act-1960 could not stop the alienation of land in Tripura.

Fifthly, the political leadership of the state was also reluctant to stop land alienation. The Tripura Land Revenue and Reforms Act-1960 has a section called Section 187 according to which all the lands unauthorisedly occupied by the non-tribals were to be earmarked for restoration and were to be re-distributed among the needy tribal families. But this process was not in operation till 1980s. The then Government of Tripura was so reckless that just before 11 days of the Assembly poll, the Government brought an Ordinance called 'Tripura Land Revenue and Reforms (Second Amendment-1974)' which was severely against the interests of the tribal people of the state. (Bose, 1996) Because this Amendment made the year 1969 as the cut-off year after which the takeover of

tribal land by the non-tribals would be declared void. It is to be noted carefully that the 1960 Act provided for banning transfer of such land after 1961. By deferring the date from 1961 to 1969 the administration skillfully legalized all those illegal transactions up to 1969. So, the political will of the leadership can be questioned easily.

Sixthly, after the refugee influx the focus of the state shifted to their rehabilitation. Most land used for it was tribal sustenance. In 1948 the first ever farmers' cooperative was formed for them in the Dharmanagar (now Kanchanpur) Sub-Division. It became Swasti Samity Ltd in 1950 and some 6,400 acres were handed over to it from more than 600 tribal families, mostly Reang (Bru). The Directorate of Rehabilitation was formed in 1950 for the task of rehabilitating both registered and unregistered refugees, providing them shelter and opportunities for gainful employment. In the colonies built for them each family was provided shelter, food rations, clothes, beds, utensils, cash, medical help, educational and some professional benefits and loans for business, land, agriculture and housing. Families that did not get land were paid Rs. 2,750 each for purchasing it (Bhattacharyya, 1988).

As a result of the failure of the legal measures adopted alienation of tribal land became a common phenomenon in Tripura. That resulted in massive tribal land alienation. Apart from the 6,440 acres allotted to the cooperative in 1950, the tribes lost not less than 26,101.2 hectares (64,470 acres) to the rehabilitation colonies 5,499 hectares (13,572.65 acres) of it private and the rest common. No notification was issued or compensation paid for the commons since the TLR&LRA1960 had turned them into "state property". So the tribes could not lay claim over their sustenance Over and above these 70,910 acres, in 1981-82 the state acquired 3,697.03 acres, 1,164.05 acres of it for plain land Bengali immigrants and 2,532.98 for East Pakistani refugees. Thus, the total used by the state for refugee rehabilitation is 74,607.03 acres, 17,269.68 acres of it private and 57,337.35 common. It was taken from 22,394 persons (Bhattacharyya 1988). Much more land was alienated with no legal procedure through money lending or purchase. According to one study the tribes lost 20 to 40 percent of their land Thus, the real number displaced by it is probably more than 50,000 persons. (Fernandes and Bharali 2010) Through these measures, the State fulfilled its moral duty of rehabilitating the refugees but in so doing it ignored the interests of the tribes. That created the scope of ethnic conflicts in Tripura.

The logic of common property resource being state property was used to acquire land or development projects. In the early 1970s the Dumbur dam submerged over 23,530.55 acres and more land was used for its power house and the rest of the infrastructure. Most of it was tribal community land that was not compensated. Its project filesmention 2,558 individual land-owning displaced families (13,000 persons) but studies point to 8,000 to 9,000 families (40-50,000 persons)

(Bhaumik, 2003). Of the 209,336.59 acres known to have been used in Tripura for development projects 1947-2000 a third is known to be tribal commons and more than half of the rest is tribal land (Fernandes and Bharali 2010). The Dumbur dam was the turning point because by 1970 the tribes had lost 20 to 40 percent of their land officially and more through money lending and other means. Thus, when the Dumbur dam was announced they protested against it but the state ignored them. That is when the tribal insurgency began. It is called terrorism but it is for land (Bhaumik 2003).

Conclusion:

In this way statist intervention upon natural resources like land, water and forest could not empower the son of the soil of the North East Region. This has been pointed out in the case study of Tripura. The indigenous princely administration remained insensitive towards the cause of the poor tribes. Their traditional rights over the land and forest were not respected, their livelihood not safeguarded, identity not protected and languages not permitted. The same trend continued during the post-colonial phase. State only shows interest in the physical/material resources in the nature, not in the human resources who have been maintaining a symbiotic relationship with the nature. The post-colonial state must not interpret the indigenous way of life as per the Hobbesian dictum “nasty, brutish and short” for fulfilling its zealous agenda of reform. Statist interventions upon natural resources must be redesigned and participatory resource management practices must be revived for the sake of intra-generational equity (equitable relationship between the tribals and non-tribals) as well as inter-generational equity (sustainable use of natural environment).

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