

TRIBAL STUDIES IN INDIA: INTERDISCIPLINARY PERSPECTIVES AND APPROACHES

Lecture23

Lecture 23: Tribes during the Colonial Rule: Administration of Tribal Areas: Laws and Legislations I

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Welcome and good afternoon. Today, we will continue with our NPTEL MOOC course on Tribal Studies in India: Interdisciplinary Perspectives and Approaches. We have come quite far now from where we started, you know, from trying to understand the concept of tribe, the different ways in which tribal communities have been studied—the methodologies, the theoretical perspectives pertaining to tribal studies in India. We have also covered significant topics in relation to tribes, particularly in the context of the socio-cultural and political history of the communities. Now, following from where we have started, I think a very important part of every community's history in India is the history of colonialism.

Every community's history in India is the history of colonialism. Now, in the context of tribes as well, the encounter with the colonial state is something very important. In the last few lectures, we have looked at the incursion of the colonial state into tribal territories. We have learned that the encounter between the colonial state and the tribal communities in India was something very violent. Now, although we only talk about the context of the Lushai or the Mizo communities in northeast India, the experience—in terms of the way in which the Lushais or the Mizos today were subjugated by the colonial state—is something very common across tribal communities.

Now, today, we will move ahead of that particular topic because we already understand that tribal communities over time were integrated into the larger

colonial state. Now, what happened after the integration of tribal communities within the colonial state? Now, all of us know by now that, as communities in many parts of India, tribal communities have their own distinct political institutions. They have their own system of governance. Sometimes, we normally refer to it as customary.

Sometimes we refer to it as traditional institutions. So, what were the ways in which the British responded or engaged with tribal governance in India? Through this lecture, we will also try to understand the impact of the political institutions or the legislations introduced by the British, which continue to resonate even in post-colonial India. So, this lecture, number 23, is titled 'Tribes During the Colonial Rule: Administration of Tribal Areas, Laws, and Legislations.' Now, at the outset, I would like to make this point: the governance of tribal communities in India was very diverse, in the sense that there were no uniform laws and legislations implemented across the entire country.

Across India, you will see that the British resorted to different mechanisms and ways of governing the tribal populations. However, what is also important is that these policies and legislations, crafted by the colonial state, were more or less in response to the nature of their encounter with the tribal communities. During the colonial period, the British introduced several laws and legislations concerning tribal areas, covering both administrative aspects and resource rights, particularly land, water, and forests. The larger assumption driving the introduction of laws and legislations pertaining to tribal communities was that these communities are distinct, unique, and different. The belief was that modern laws were unsuited to the tribal communities because they were primitive and backward.

Some of the most prominent laws introduced by the British include, for instance, the Forest Rights Act, and on the governance and administration side, legislations like the Excluded Areas Act of 1846 and the Government of India Act 1919. Now, as I said, tribal areas or tribal communities are quite spread out all over the country. What happened was that it was very difficult for the British to introduce similar kinds of laws and legislation. But despite that, in post-colonial India—after independence—many of the laws introduced by the colonial state continued to be followed and practiced, of course, with some revisions. But they continue to be used, particularly in governing tribal populations in independent India.

Now, let us look at the historical backdrop of their introduction. Why is it that the British think there has to be different kinds of laws and legislations pertaining to tribal communities in India? Colonial administration of tribal areas can be mapped to the regulation of forests and specific legislations for tribal areas. Now, like I said, the British instituted a different regime of governance specifically for the tribal communities in India, particularly by introducing a different set of laws and legislations. Now, these laws and legislations primarily aim at one thing, which is to create a policy of isolation, that is, isolating tribal communities from the larger Indian society, which eventually led to the seclusion of tribal groups from mainstream society.

Now, the impact was not only in terms of creating two different zones in which two different kinds of laws and legislations were implemented, but it also resulted in the territorial segregation between hills and the plains, where, at times—most of the times—the hills were subjected to exceptional laws because they were, the hill areas in India, particularly in regions like northeast India, are predominantly inhabited by tribal communities. Now, what the colonial laws and legislations did was not only introduce a law. Now, when the laws came into force, it has a lot of impacts on the ground. One of the impacts was this segregation between the hills and the plains, that the British segregated the hills, people living in the hills and people living in the plains.

Now, one of the most important laws that were introduced by the British was the Bengal Eastern Frontier Regulation Act, 1873. Which is popularly known as the inner line. The inner line was enforced in places like Lushai Hills, places like Naga Hills and the North East Frontier Tract, which is present-day Arunachal Pradesh. Now, when the British introduced the idea of implementing the BEFR, it was basically to keep the tribes out of the mainstream society. Now, of course, you know, the British did make a lot of justification as to why the Lushais or the Nagas needed to be kept out or excluded, primarily because, yes, they knew that these communities had a distinct culture, these communities had distinct traditions.

But the other part was also that, you know, the British had their own interests at the back of their mind when they introduced these laws. Now, what is the inner line? Now, the inner line basically is that, you know, anyone who needs to enter the territories which are in areas where the BEFR is implemented needs to take a

special permit. Now, why is this law important? It is essentially important because if you look at the present-day states like Nagaland, Mizoram, and Arunachal Pradesh, the inner line permit is still enforced.

And today, I think from December 2019, The Bengal Eastern Frontier Regulation Act is enforced in the state of Manipur as well. So, therefore, like I said, it is important to understand the historical context of these laws and legislations because they continued to define tribal policies in terms of laws and regulations, legislations in the post-colonial period. So, like I said, you know, one of the primary aim was to isolate the tribal communities and this idea of isolating the tribal areas stems from the idea of what the historian Sangha Mitra Mishra called legal primitivism. Now, what is legal primitivism? Legal primitivism is essentially the idea that a dominant legal system views primitive rules and practices as inherently different and inferior.

Now, basically, there are two ways of explaining this. One is that, you know, the assumption that tribes are primitive, right? We always talk about, you know, how this idea of primitive, the primitiveness of the tribes is something that is inherent in every tribal society or in every tribal community. Second is that the belief that as they are primitive, the kind of modern laws are unsuited for tribal communities. So therefore, on the one hand, because of their primitive culture, because of their primitive nature, the kind of rules and the kind of customs that tribal communities follow are inherently inferior.

They are different, but they are inferior. On the other hand, this also implies that tribal communities cannot be governed using the same modern laws as non-tribal communities are governed. Now, legal primitivism, according to Sangha Mitra Mishra, was used as an excuse to label certain groups as unreliable and unchanging, making them seem isolated from history in colonial narratives. Now, this is just an extension of the idea of legal primitivism in the sense that there is an implicit assumption that tribal communities are unreliable and unchanging—that they are frozen in time, static, and changeless communities. Tribal communities do not respond to any kind of change that is happening.

So, therefore, the British used this idea of legal primitivism as a way to justify the exclusion of tribal communities from the larger mainstream Indian society. For instance, in northeast India, the East India Company introduced customary laws

and traditional leadership among tribes for governance and to meet its needs. Now, in many parts of Northeast India, we already know that much of the population consists predominantly of tribal communities. Now, in all of these places, irrespective of the different structures of institutions and legislations introduced, one of the commonalities you will see is that the British actually used customs or customary institutions and traditional institutions to govern the vast majority of tribes. The colonial laws and legislations resulted in governing all tribal communities under similar regulations, which institutionalized, for instance, the chiefs in Garo tribes, which were hitherto governed by communal assemblies and judicial interventions following British regulations.

Now, in many parts of tribal areas, what happened is that the colonial state was trying to govern through already existing institutions. Now, in many parts of India, in many tribal areas that had a chieftain system, they used the chiefs as agents of their government. Now, in many parts of India again, it is not always the case that tribal communities already had political institutions. Many times, they had different kinds of institutions where there was no centralized authority. Now, in that kind of situation, sometimes the British also use or appoint chiefs or, at times, they appoint a new kind of agents in the form of sirdars based on their character, general behavior, and local influence.

In the hills of Manipur, they have introduced Sirdars, agents like the Limbus. In Lushai Hills, in today's Mizoram, they have introduced something known as the circle interpreter. Now, among the Nagas, they have introduced, you know, the Gaunbura, for instance. Now, if you look at it, you know, while the British claim that tribal communities have their distinct customs and traditions, and their customs and traditions need to be respected. But on the other hand, you will also actually see that the British have introduced new kinds of systems of governance within the tribal communities.

So, the aim behind, you know, installing chiefs or appointing chiefs among the hill tribes was to maintain oversight over political and judicial affairs and to ensure the flow of forest revenues, products such as cotton and timber. Now, at the end of the day, it all boils down to one thing, that is, the colonial interest is at the top. Now, it was not that, you know, the British were very much concerned about the welfare of the tribal communities. Rather, it becomes easier for them, you know, it becomes financially less expensive for them if they are capable of governing

the tribes through existing institutions or by introducing, you know, a few agents who will aid the colonial state in terms of collecting revenues in relation to, say, forest products or cotton and timber.

Now, therefore, it is for this reason that if you look at a critical analysis by scholars who have looked at the way in which the colonial state engaged with the tribes, particularly when it comes to laws and regulations, you will see that it is defined by a... strong idea of paternalism because the idea of paternalism essentially is that the British think that they know what is best for the tribal communities. Therefore, they think that it is in the interest of the tribes. They are doing a favor to the tribes by secluding them from the mainstream communities because if the tribals come in contact with the mainstream communities, then they might get exploited. Or if they come into contact with the mainstream communities, then they might get assimilated, which will eventually lead to the loss of their culture, identity, and so on and so forth.

Now, moving ahead, similarly, tribal communities residing in the plain regions were also directly or indirectly affected by the different administrative laws and legislations. It is not that, you know, tribals, every tribal community lives in the hills. It is not always that many of all the tribal communities live in the forest. Many tribal communities, whether they are in mainland India or in northeast India, live in different geographic spaces. And this includes, you know, the plain areas as well.

Now, if you look at Assam, for instance, you will see that many tribal communities, say, Bodos, Kacharis, also live in the foothills and the plains. So, therefore, the new legislations that were introduced in respect, you know, pertaining to the tribes equally affected all tribal communities irrespective of the geographical regions they reside. In 1793, Lord Cornwallis implemented the Zamindari system, also called the Permanent Settlement, that primarily benefited those loyal to the British rule. It was mainly enforced in Bengal, Bihar, and Orissa. Now, with the introduction of this permanent settlement came the idea of institutionalizing the zamindari system in India, particularly in terms of collecting revenues from land.

Now, this land, the new system gave zamindars, where the landlords, hereditary ownership of land in return for a fixed rent, tax payment to the British

government. Now, you know that, for the colonial state, one of the biggest sources of revenue was essentially from land, right? The vast majority of people in India were largely dependent on agriculture, basically on land. Now, therefore, one of the ways in which the colonial state tried to extract the maximum out of ruling India was basically by getting as much revenue from land, from taxation on land. So, zamindars all over, where the permanent settlement was introduced, gained private ownership of land, allowing them to treat land as a marketable commodity.

Now, land was divided into small parcels, leading to multiple feudal lords controlling different sections, and this disrupted the traditional tribal economy as tribes lost their customary rights over agricultural land. Now, the introduction of the permanent settlement, particularly the zamindari system, resulted in the erosion of tribal rights over agricultural land. Which, over a period of time, increased their dispossession as well as their pauperization. For instance, the introduction of the permanent settlement in tribal areas in Bengal abolished the traditional practice of collective and traditional ownership of land, known as the Khutkutti system. Furthermore, the British colonial state also established a cash-based market economy in tribal areas, increasing the influence of intermediaries such as moneylenders and traders.

Now, in many tribal societies, if you look at it, definitely, I don't want to paint a very simple image of the tribal communities. But then, over a period of time, with the expansion of the colonial state into the tribal areas and tribal territories, what you see is that there are new kinds of agents. New kinds of institutions that were emerging. Now, one of them was the moneylenders and the traders. Now, under the hands of these moneylenders and traders, the tribals suffered immensely.

And the suffering of tribals worsened due to exploitation by outsiders, including police, traders, and moneylenders. So, therefore, you will see that the moment the outsiders, in terms of money lenders and traders, have emerged in tribal areas and territories, what happened is that it started resulting in creating tensions between the tribal population and the non-tribal population. Now, in places like Jharkhand, you will see that, many times, tribals assert themselves politically, socially, culturally, against who they call Dikus, that is the outsiders or the non-tribals. Now, in many parts of Northeast India also, there is a strong suspicion about outsiders coming in, taking over the economy. So, this

experience of exploitation in the hands of the outsiders has resulted in a confrontation or a kind of tension between the tribal populace and the non-tribal population.

This new system created widespread resentment and unrest among tribal communities as they were displaced and deprived of their livelihood. As a result of tribal settlements, tribal resentments against the colonial administration which undermined the tribal autonomy, certain laws were introduced to pacify and isolate tribal areas. so basically, over a period of time, with the intrusion of the colonial state and the introduction of new agents such as money lenders, traders, judiciary, police, and so on, there was a lot of tension between the colonial state and the tribal populace. Now, you see that it was essentially this experience of exploitation which acted as the catalyst for a lot of resistance during the colonial period. As a response to the continued resistance, the continued raids, and the continued unrest in tribal areas, the colonial administration introduced new legislation and laws that would isolate the tribal communities from the larger Indian society or the non-tribal population.

So, we started seeing new legislations which are being introduced, and we will just quickly run through them. One of the first, you know, legislations which was introduced was the Excluded Areas Act of 1876. Now, like I said, different laws and legislations were introduced by the British during the period of colonial rule. It was not that, you know, these laws and legislations were applied uniformly all over India. According to the reasons and the situation, different laws and different legislations were introduced.

The Excluded Areas Act of 1846-

- It originated in the Bombay Presidency pertaining to the hill-forest areas. The act came into effect after the rebellion of a Bhil Chief Kuar Vasava.
- Jeeva like other Bhil chiefs in this part has taken advantage of the time to establish his power and rights over the neighbouring fertile districts. His family land consists of 84 villages in Raj Peepla... he became the dread of the surrounding country, he levied tribute from several zemindars, made passengers and merchants pay toll for their free transit through the country and triumphantly boasted that at his whistle, he could command the service of 4000 bowmen



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Now, specifically in relation to the Excluded Areas Act of 1846, it originated in the Bombay Presidency pertaining to the hill forest areas. The act came into effect after the rebellion of a Bhil chief, by the name, Kaur Vasava. Now, this is a report by a British political officer who was posted in the Bombay Presidency. Now, he wrote about the Bhil chief, saying that Jeeva, like other Bhil chiefs in this part, had taken advantage of the time to establish his power and rights over the neighboring fertile districts. His family land consists of eighty-four villages in Raj Peepla.

He became the dread of the surrounding country. He levied tribute from several zamindars, made passengers and merchants pay toll for their free transit through the country, and triumphantly boasted that at his whistle he could command the service of four thousand bowmen. Now, in India, most of the time, when you talk about colonial history, we're always talking in terms of empires, in terms of kingdoms. But then there were also a lot of powerful chiefs. And these powerful chiefs were particularly found not only in northeast India but also in many parts of mainland India.

One of them is the Bhil chief Kaur Basava. Now, this is a description given by the political agent Briggs. Then you will see that his influence is quite vast. You know, he is a very powerful chief. Now, over a period of time in the Bombay Presidency, particularly in the area where the Bhils are living today, it is known as the Khandesh region, which actually maintained a lot of autonomy even during the Mughal period and the colonial period.

Now, they were not very happy. Many Bhil chiefs definitely worked under the administration of the colonial state, but many chiefs refused to accept the sovereignty or the power and authority of the colonial state. So, there were many chiefs who revolted against it. Now, in response to the revolt, the British introduced this particular act known as the Excluded Areas Act of 1846. More popularly, this came to be known as the agency system, and the act appointed a British agent in the Mavasi Hill tracts of Khandesh and Ahmednagar.

Now, you will see that these are places which are today in Maharashtra. The British agent was responsible for maintaining law and order and regulating the entry of outsiders into the tribal areas. Now, what did the act do? The act excluded the tribal areas from being subjected to the legislation and laws for non-

tribals. So, there is this segregation between the tribal space and the non-tribal space.

And secondly, the entry of outsiders, the entry of non-tribal populations into these areas where the excluded areas were enforced, was curtailed. Another important act which was introduced is known as the Scheduled Districts Act of 1874. Now, this law was introduced to bring areas where general regulations were enforced, even though the area was classified as a non-regulation tract. Certain districts came to be declared as scheduled due to their tribal dominance, isolation, and distinct customs—reasons which required special consideration and different legal frameworks than the rest of British India. Now, you can recall the argument made by Sangha Mitra Mishra when she says that it is this idea of legal primitivism which the colonial state used to justify the introduction of different laws and legislation for the tribal communities in India.

Why was the Scheduled Districts Act introduced in 1874? It was basically implemented in areas which had significant tribal populations, who were geographically isolated and had distinct customs. And who required special consideration and a different legal framework because they were essentially primitive, essentially backward, and could not be governed under the same laws as the rest of British India. Now, the British laws applicable to the rest of India were not automatically enforced in these districts. It allowed the government to frame separate rules and laws for these areas.

The governor-general had the authority to declare and modify the list of scheduled districts. A very important act which came into force in the early part of the 20th century was the Government of India Act of 1919. Now, the Government of India Act of 1919 was reformulated in 1935. We will come to that as well. But we will try to understand the idea behind the introduction of the Government of India Act of 1919.

The act divided tribal areas into two categories. One category was known as the backward tracts—areas which had a high tribal population requiring special governance. The second was the partially excluded areas. In these partially excluded areas, some British laws were made applicable but with modifications. Therefore, in the backward tracts, no laws were applicable.

Particularly pertaining to the non-tribal population or in areas which the colonial state referred to as non-tribal areas. Now, in partially excluded areas, what you see is that British laws were definitely applied but with certain restrictions or modifications. Based on the type of administration, the backward areas were divided into two kinds of spaces. One, where the administration was run through nominated representatives. and second, in the most backward districts, which were excluded from constitutional reforms and laws for the general public, the power was with the governor.

So basically, you have one very centralized authority which looks into the everyday affairs of these regions. In the context of backward tracts, it is the governor, but in the case of partially excluded areas, it is the nominated representative who is the head of the institutions. So, by and large, these areas are excluded from the jurisdiction of elected provincial governance. Now, what does it do to the tribal communities? One is that it restricts the political participation of tribal communities because it does not allow them to participate in any provincial elections.

So, there was no political activity. Now, if you look at the entire Indian national movement as well, it was for this reason that many tribal communities were unable to actively participate in the Indian national movement. And at the same time, there may or may not have been much effort on the part of the nationalist leaders to reach out to the tribal areas as well. So, when the colonial state began to introduce representative forms—which may not have been very complete—but a representative form of governance, tribal communities living under scheduled areas, particularly backward areas and partially excluded areas, were not in a position to participate in any kind of democratic elections. So, the governor was the one who was bestowed with the most power, and they had the authority to make laws and regulations without provincial legislative interference.

For the administration of tribal regions, the Government of India Act of 1919 provided for partially excluded areas. These areas, unlike the backward tracts, had limited representation in provincial councils. Provincial governments had some control, but governors held special discretionary powers. Now, moving from the Government of India Act of 1919, one of the later acts that continues to have very strong implications for tribal communities in post-independence India is

the Government of India Act of 1935. This act also categorized tribal spaces into two distinct regions.

One was the excluded areas. These areas were entirely under the direct rule of the governor. The provincial legislature had no authority over them. Laws made by the provincial government did not apply to these regions unless the governor specifically extended them. No representatives were given to the people of these areas in the provincial legislatures.

These regions covered the North-East Frontier—today's Arunachal Pradesh—Naga Hills, and Lushai Hills. Now, as I said, it was not that these laws and legislations were absent. They were not implemented because the tribals demanded them. These laws and legislations were introduced and implemented not because the tribal communities needed, you know, special protection. It was the British who thought that the tribals needed special protection, the tribal communities in India needed, you know, special kinds of laws and legislation to govern.

So, therefore, the excluded areas came into force, particularly in areas which were defined as backward tracts. Formally, by the Government of India Act of 1919, these areas were known as backward tracts. Now, many of the laws that were applied in these regions under the Government of India Act of 1935 continue to be enforced even today. Till today. So, during the entire colonial period, if you look at the history of Mizo hills, the history of Mizo, Lushai hills, Naga hills as well as the North East Frontier Tract, you will see that there was minimal political activity happening.

But from the 1930s and the 1940s onwards, political consciousness definitely began to develop among the communities despite the fact that they were put under very excluded spaces where they were not allowed to move out of their territory. However, because of the different kinds of political events that were happening globally, such as the First World War, the Second World War, and many other things, the introduction of modern education within these spaces led to political awakening. But then the excluded areas, the imposition of the Government of India Act of 1935, limited in many ways the political participation of tribal communities in the larger anti-colonial movements as well. Now, what

about the partially excluded areas? These areas were primarily under provincial control, but the governor had special discretionary powers.

Those passed by the provincial legislature could be applied only with the approval of the governor. Some representation was given to the tribal population, but their legislative role was limited. These partially isolated areas constitute the Chhotanagpur Plateau and the Santhal Parganas, which are mostly in today's Jharkhand. In northeast India, the Khasi and the Jaintia hills. Now, unlike the backward tracts, which are totally secluded from the larger Indian society, the partially secluded areas have some form of political participation.

However, this was also something that was very limited, and they were strictly monitored and controlled by the colonial state. Overall, the Government of India Act was designed to help in the transition to self-government by establishing provincial legislatures and ministries with limited voting systems. However, it did not grant the same rights to communities that were classified as tribes. Overall, the approach in governing tribal areas is often seen as paternalistic, as the image of tribals in colonial times was that of a group of people who could not be assimilated into mainstream society. Now, at the start of the lecture, as I said, while these laws were celebrated by the colonial state as something that would work in the interest and benefit of the tribal communities themselves.

Many scholars have argued against and criticized these laws and legislation because of the paternalistic tone and the paternalism behind their introduction. However, these laws and legislations, which were introduced by the British, continue to have strong implications in tribal societies or among tribal communities, particularly in post-independent India. Now, if you look at where the different structures of autonomy are being implemented, it is mostly implemented on the basis of the Government of India Act of 1935, which made the distinction between partially excluded and excluded areas. Now, in post-independent India, we begin to have two structures of autonomy.

One, the Fifth Schedule, and the second, the Sixth Schedule. The Sixth Schedule came to be implemented in the northeastern part of India, and it was applied in areas and regions that were mostly defined as excluded areas. Where the Fifth Schedule came to be implemented, it was mostly in regions that came to be known as areas inhabited by tribal communities, mainly in central India. So,

therefore, colonial policies, despite the criticisms, despite the many drawbacks, despite its own limitations. Continue to influence tribal administration even in post-colonial India.

But by and large, it is undeniable that these laws and legislations had a significant impact on the way in which we perceive tribal society, essentially because they reinforced the policy of seclusion, the policy of isolation, and by excluding tribal communities from the larger Indian society. So, I will stop here. Thank you so much.