

TRIBAL STUDIES IN INDIA: INTERDISCIPLINARY PERSPECTIVES AND APPROACHES

Lecture36

Lecture 36:Tribes in Post-Colonia India II: Tribal Administration and Autonomy Provisions II

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Good evening. Welcome back to the NPTEL online certification course, Tribal Studies in India: Interdisciplinary Perspectives and Approaches. Today we are going to do our lecture number 36, and this lecture is a continuation of where we stopped in the last lecture, in the last class, that is, Tribes in Postcolonial India: Tribal Administration and Autonomy Provisions. Now, in the last class, to have a brief recap of what we did, we specifically looked at autonomy provisions, particularly the Fifth Schedule and the Sixth Schedule. Now, when we talk about the Fifth Schedule and the Sixth Schedule, it is important to understand that these schedules were not necessarily gifts to the tribal communities.

There were a lot of struggles and demands by the tribal communities themselves during the drafting of the constitution. They demanded that their interests and rights be protected and safeguarded. One of the ways in which the Indian nationalist leaders tried to address tribal issues or aspirations was by introducing these two schedules: the Fifth Schedule and the Sixth Schedule. Now, the Fifth Schedule mostly pertains to the mainland part of India, while the Sixth Schedule is essentially for the tribal communities in the northeastern part of the country. Now, in terms of the structure of autonomy, these schedules are very different.

In the Fifth Schedule areas, you see that the Governor has a very prominent role. But in the case of the Sixth Schedule, you will see that there is a far more

effective decentralization of power. This decentralization of power is essentially enabled by the creation of autonomous district councils. Now, at the same time, you will see that these autonomous district councils are endowed with many powers and responsibilities. And these powers and responsibilities work toward protecting the interests of the tribal communities.

Now, as I said, not all tribal communities in India are under the Fifth Schedule or the Sixth Schedule. Initially, during independence, let us focus only on the Sixth Schedule case. It was only in today's state of Meghalaya where the Sixth Schedule was enforced. But now you will see that the Sixth schedule has been extended, and the provision of the Sixth schedule has been extended to several parts of Assam. For example, in the Karbi areas as well as the Bodo areas.

Now, in the mid-80s, you will see that the provisions, the Sixth schedule provisions, were extended to Assam. Tripura, where today tribal communities are under their own separate tribal autonomous councils. Now, in the northeast, you will see that many other states like Manipur came up with their own structure of autonomy. In Sikkim also, some communities definitely enjoy their own autonomous provisions. But in this lecture, we will begin by trying to understand some kind of political arrangement specifically which is outside the purview of the Sixth Schedule.

Now, most of the time, this structure of autonomy is known as Statutory Autonomous Councils. And as I said, these are councils which are outside the purview of the Sixth Schedule. It is important to understand because it covers a very large stretch of land. It also covers a large population. Now, in the case of Manipur, in my previous lectures, I have talked about it.

That, you know, Manipur is predominantly, you know, inhabited by tribal communities, particularly in the hill areas or in the hill districts. And these hill districts, you know, constitute about 90 percent of the total geographical area of the state. However, the state, you know, the tribal communities have been perpetually denied any form of provisions under the Sixth schedule. Now, the state government or the government of Manipur has come up with its own legislation that will specifically cater to the, you know, administration of tribal areas. Now, in Assam as well, some tribal communities today have Sixth

schedule provisions, but there are many tribal communities who are outside the provisions of the Sixth schedule.

So, therefore, apart from the autonomous councils that are under the Sixth Schedule, the states of Assam and Manipur also have Statutory Autonomous Councils for specific communities. These councils have been created through laws and legislation which are passed by their respective state legislative assemblies. So, basically the Sixth Schedule is a constitutional body, whereas in the case of the Statutory Autonomous Councils, they are mostly created or established by legislations which are passed by their own respective state legislative assemblies. Now, in Assam, besides, you know, the North Cachar Hills, the Karbi Anglong, and the Bodoland Territorial Area District, the state government of Assam has set up several other autonomous councils for specific communities. This includes the Raba Hasong Autonomous Council, the Tiwa Autonomous Councils, the Mising Autonomous Councils, the Thengal Kachari Hill Autonomous Councils, the Sonowal Kachari Autonomous Council, and the Deori Autonomous Councils.

Now, despite that, you know, these autonomous councils are not essentially or exactly under the provisions of the Sixth Schedule, they are more or less similarly structured to the autonomous district councils under the Sixth Schedule. So, however, today, you know, the presence of these three parallel systems of governance—one is the council, then the state government departments, and the Panchayati Raj Institution—has resulted in a lot of confusion in terms of administration. Now, all of these councils have their own duties and responsibilities. Now, in any normal district, you will see that, you know, the district deputy commissioner, The deputy commissioner or the deputy magistrate, the DM, is the head of the district.

Now, but in the context of areas under the Sixth Schedule, you will see that there are certain kinds of clashes when it comes to their administration in terms of what the district administrator has to do and what the autonomous district council representatives have to do. Or what the state government departments have to do. So, many times, you know, because of the existence of these three parallel systems of governance, it often results in confusion in terms of administration. Now, another important problem commonly associated with these councils is that they do not cover non-contiguous villages, meaning the villages under their

jurisdiction are not all connected or located close together. So, many times, you will see that if you look at the autonomous councils under the Sixth Schedule, you will see that they tend to be more or less in a complex geographical area.

It means that the entire area is declared a scheduled area, and once it is declared as a scheduled area, all the villages under it are directly under the provisions of the Sixth Schedule. Now, in the case of these statutory councils, you will see that it does not cover, it is not geographically or territorially contiguous in the sense that some villages are part of it, and some other villages located elsewhere are part of it. So, there is this no geographical contiguity right which resulted in problems in terms of administration. In some areas, communities other than the intended beneficiaries, including both tribal and non-tribal groups, have lived there even before these councils were created. So, what is happening is that when these autonomous councils like Rabha or Mising Autonomous Councils are created, what happens is that they are targeted to specific communities.

Now, when this problem of geographical continuities, this idea of covering non-contiguous villages, resulted in a problem where the intended targets of this autonomous councils are actually excluded. At times, communities who were not supposed to be part of this are included. So, it can result in a lot of you know messy kind of administrative situation. Now, let us come to Manipur. In Manipur, Autonomous District Councils were established under the Manipur Hill Areas District Council in 1971.

The act divided all the hill areas of the state into six autonomous districts with their own district councils. Now, there has always been, you know, district reorganization in Manipur. So, initially, Manipur had only 6 districts. Now today, you know, it is divided into, I think, 16 districts today. So, but we are going to, you know, use the old one because particularly when the law came into being, there were only 6 district councils.

One is the Chandel district Council. Second is the Churhandpur district Council. Third is the Sadar Hills Autonomous District Council, fourth is the Manipur North Autonomous District Council, fifth is the Tamenglong Autonomous District Council, and the last is the Ukhrul Autonomous District Council. Now, each of

these district councils has 24 members. They also have an executive committee, which includes a chairman who is also the chairman of the executive committee.

A vice-chairman, five other members nominated by the chairman from the council. This council has powers to manage different areas, such as building and maintaining roads, bridges, and public buildings; running schools up to class 8; operating dispensaries and health centers; managing water supply and sanitation; and overseeing irrigation and agricultural water schemes. Now, I wanted to spend some time on the Manipur District Council, essentially because it provides us the kind of challenges that tribal communities in Manipur face. Now, when the act came into force, there was a lot of enthusiasm among tribal communities in terms of them being granted some kind of autonomy provisions. Now, Manipur, demographically and geographically,

If you look at it, the non-tribal communities, particularly the Meiteis, who are also the majority demographically, socially, culturally, and politically, inhabit mostly the plain areas. That is in the valley areas, you know, the inner areas. Now, the hill communities belonging to Naga, Kuki many other tribal communities, they live mostly in the hill areas. Now, elections to the councils are conducted and it has been functioning for some time. But then there was this strong demand desire among Manipur tribal communities to be, to be that Sixth Schedule be extended in the state of Manipur for the tribal communities and all these existing autonomous councils be upgraded to the status of Sixth schedule.

Now, it resulted in a protest and unrest for a long time. And for 20 long years, these Autonomous district councils in Manipur were defunct. It means that they were not in operation. Now, what this means is that the effort to decentralize power in Manipur actually, in some sense, was a failure, in the sense that the tribal communities were not very happy with the provisions. Because if you look at the difference between the Autonomous Statutory Council and councils which are formed under the state law, you will see that the dominant communities in the state can actually continue to exert their influence or continue to exert their hegemony among the smaller or minority communities.

Now, in that kind of situation, what happened is that many times these councils are unable to protect and protect the interests of these communities. It resulted in a lot of tensions. It resulted in a lot of contestations. Now, in the case of the

district councils in Manipur, you will also see that the number of administrative responsibilities, the number of powers that are being enshrined, the number of powers that are being endowed to these councils are far weaker and lesser as compared to the Sixth Schedule, as compared to the autonomous councils under the Sixth Schedule. So, what it essentially means is that, you know, there are these provisions that are actually, in many ways, comparable to the provisions under the autonomous district council of the 6th schedule areas.

So, it was for this reason that there is a lot of tension when it comes to a state like Manipur where there are many communities, and these communities actually aspire to have a higher form of autonomy. So, even today, despite all these persistent struggles and persistent articulation of aspirations, this schedule has not yet been extended to the state of Manipur. Now, there is an entirely different story, but, you know, I just wanted to highlight, you know, the context of Manipur. Likewise, in Assam also, you will see that these territorial Sixth Schedule autonomous district councils were not directly enforced in a day. So, the Bodos were aspiring for some kind of autonomy.

Likewise, in Tripura also, the communities were aspiring for autonomy for a long period of time. There were a lot of struggles. There were a lot of movements. And after, you know, a prolonged struggle, they were granted some kind of autonomy, and that came in the form of the sixth schedule. So, likewise in many parts of northeastern India, you will see that many communities aspire to have some form of autonomy provisions because they see these autonomy provisions as a way to protect themselves from the larger dominant communities, but also at the same time to enable them to continue their customs, their traditions, and also ensure that their customs, their traditions, their way of life are protected.

Now, another important structure of autonomy when it comes to the tribal areas is the Panchayats (Extension to the Scheduled Areas) Act, 1996. In short, it is often known as the PESA. Now, this PESA is particularly important because after the 1990s, you will see that there has been a real effort on the part of the government of India to actually decentralize power all over. And this decentralization of power was no longer limited to communities in the sense that it should not only be tribal communities who are getting some kind of autonomy or decentralization of power. Now, you will see that during 1993–1994, urban

local bodies, for example, have been granted a lot of autonomy in terms of undertaking developmental activities and raising revenues, and so on.

So, after that, we begin to see similar kinds of changes or efforts in the form of panchayat extension to the scheduled areas in 1996, particularly in tribal areas. So, apart from the constitutional provisions of the Fifth Schedule, there was a felt need by the tribal communities to further preserve and protect their forest-dependent livelihoods through provisions of self-rule. The enactment of the Panchayati Raj system through the 73rd and 74th Constitutional Amendment Acts of 1992. it aimed to decentralize the governance process and empower grassroots-level institutions to govern according to local needs, providing much-needed impetus to the autonomy demands of tribal communities. Now, this is what I was talking about.

In the early 1990s, with the Constitutional Amendment Act of 1992, the 74th Constitutional Amendment was specifically introduced to decentralize power in villages in rural India, as well as in urban India, enabling local communities to be part of governance systems where power is no longer centralized. Power is becoming decentralized, and ideas of development, development policies, and socio-economic issues are no longer coming from the top down. They started coming from the bottom up as well. So, in that kind of situation, the idea was that it was really an opportunity even for tribal communities to envisage the extension of such decentralization of power, which eventually came in the form of PESA 1996. Now, the idea of the 73rd and 74th Constitutional Amendments, the spirit behind their introduction, is very important because it aimed to decentralize the governance process and empower people, citizens, in terms of governing at the grassroots level.

Panchayats (Extension to The Scheduled Areas) Act, 1996

- Apart from the constitutional provisions of fifth Schedule, need was felt by the tribal communities to further preserve and protect their forest dependent livelihoods through provisions of self-rule.
- The enactment of Panchayati Raj system through 73rd and 74th Constitutional Amendment Act of 1992- decentralizing the governance process and empowering the grass root level institutions to govern according to the local needs, provided much needed impetus to the autonomy demand of the tribal communities.



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So, these developments happen in the backdrop of several movements occurring simultaneously in tribal areas, centered on the issues of self-rule, that is, as the self-rule movement, our rule in our villages primarily relies on forest resources, diverting forest land for industries, that is, land acquisition. The prominent organization which opposed this demand was the Bharat Janandolan and Dr. B.D. Sharma, who was once the commissioner of Scheduled Castes and Scheduled Tribes. Now, like I said, a discussion of autonomy, a discussion of the question of political issues among the tribes cannot be done without really understanding the context in which this demand emerged. Now, in the context of tribal communities, it most often has to do with the question of resources. Now, in scheduled areas, you will see that these autonomy provisions actually enable tribes to continue to govern forests, govern lands, and prevent land alienation by preventing the transfer of land from tribal to non-tribal areas.

But in the Fifth Schedule, what we continue to see is that there has been a gradual transfer of lands, resulting in a lot of land alienation and land dispossession. Likewise, there are a lot of changes happening, particularly in forest areas, with more than 75% of tribal communities in India being forest-dependent. So there has been this continual appropriation of forest resources, which denies tribal communities their rights to access forest resources, and this has resulted in a lot of economic deprivation. This has resulted in a lot of poverty among tribal communities. Now, therefore, the movement that demanded autonomy provisions essentially aimed to protect.

Against the continued alienation happening in terms of resources, but also to enable tribes to govern themselves in terms of their everyday life and socio-

political issues. Now, in this context, you know, a very important organization is the Bharat Janandaolan, which was led by Dr. B.D. Sharma, a very, very prominent personality when it comes to the tribal communities in India. Now the Bharat Janandolan and one of the prominent grassroots organizations, National Front for Tribal Self-rule, demanded enactment of separate laws for the tribal areas by extending the provisions of panchayati rights and municipalities in the schedule areas. So basically there was this demand taking the inspiration from the 72nd and 73rd constitutional amendment act that such kind of provisions it also needs to be extended to the schedule areas. Essentially, because it championed the idea of grassroots democracy.

It championed the idea of the rule of the people, the rule of the commoners. Now, therefore, these movements in the form of those led by the Bharat Janandolan and the National Front for Tribal Self Rule began to demand the extension of these constitutional provisions of Panchayati Raj and municipalities in the scheduled areas, particularly in the fifth schedule areas. Consequently, a special committee was formed under the chairmanship of Dilip Singh Bhuria that came to be known as the Bhuria Committee, where BD Sharma was also included as an expert member. As per the recommendation of the Bhuria Committee, the Panchayats (Extension to the Scheduled Areas) Act, 1996 was enacted in the Fifth Schedule areas. Another milestone was achieved with following the recommendation of the Bhuria Committee, where PESA was introduced and enacted in the scheduled areas.

Now, what are the provisions of PESA? What does PESA try to achieve? Which, you know, Fifth Schedule alone somehow did not. One, Gram Sabha at the para, majra, and tola levels, in the sense that, at all levels, there will be Gram Sabhas. So, basically, in Gram Sabha, it is a voice for the people.

The people are actually the ones who have the power. At every level, all decisions have to be taken by the community in gram sabha. Gram Sabhas protect the traditions, beliefs, and culture of the tribal communities, and local disputes are to be resolved by the Gram Sabhas. Gram Sabhas manage and protect common properties based on traditional systems of management and protection. The administration must seek permission from the Gram Sabhas in case of land acquisition.

Gram Sabhas have rights over minor forest produce, powers to restore land to the tribals, and control over money lending to tribals. Tribal welfare activities by social organizations and local plans and sub-plans for the development of tribal areas and communities. Gram Sabhas have control over local markets and meals. Gram Sabhas have the right to control the distillation, prohibition, and manufacturing of liquor. District panchayats have rights and powers similar to those panchayats falling under the sixth schedules.

Now, you will see that the provisions of PESA actually try to establish autonomy, attempting to grant autonomy to the community. Now, the discourse of autonomy, in terms of PESA, actually frames the discourse by locating the question of autonomy within the community, within the Gram Sabhas. Empowering the Gram Sabhas is essential because it is no longer a question of autonomy being granted by creating another institution, but by ensuring that autonomy lies within the community. This autonomy provision is for the community itself. Now, two Gram Sabhas—the Gram Sabhas were meant to uplift, protect, and safeguard the interests of the communities in terms of preserving their traditions, beliefs, and culture.

At the same time, the Gram Sabhas also should have the power and the rights to address matters pertaining to resources, particularly forest resources, and also will have the right to restore lands to the tribals. Now, like I said one of the most serious issues concerning tribal communities is the question of land in the nation. And another issue like money lending, you know, so on and so forth, are also definitely pertinent. But an issue, two issues that are particularly pertinent when it comes to resources are the question of forest and land. Now, the Gram Sabhas, according to PESA, will have the right over minor forest produce.

Basically, the community will have the rights over minor forest produce. Likewise, they should have control over the local markets and mills. They should also have the right to control the distillation, prohibition, and manufacturing of liquor. So, in terms of concept and in terms of ideas, the provisions under PESA or the panchayat extension to the scheduled areas is a very powerful concept in the sense that the idea of autonomy lies with the community themselves. And without the community, bypassing the community is no longer possible.

It is one cannot imagine any other form of democratic form of organizing community beyond the Gram Sabha. So the Gram Sabha is at the bottom of the pyramid in terms of the structure of the governance. But what PESA actually did was try to give legal recognition to the community in terms of deciding, governing themselves, and granting them rights to their resources, whether it be land or forest. So, the state legislation on scheduled areas should be in consonance with the tribal customary laws and social practices of community resources. PESA also has provisions for reserving half the seats in the panchayat for STs, and the chairperson should be reserved for STs.

The northeastern states under the Sixth Schedule areas, where autonomous councils are established, are not governed by PESA as they already have their own autonomous councils responsible for governance. Now, you will see that the demand for PESA is very strong in the fifth schedule areas and not so much in the sixth schedule areas. As I said, if you compare and contrast the autonomy provisions in the fifth schedule and the sixth schedule, you will see that the sixth schedule areas from the start have a system of autonomy, and the structure of governance is in place where the communities were given the right to protect their interests, continue with their customs, and uphold their traditions. There was something that was already there. An institution, a structure, was already in place.

But in the case of the fifth schedule, that was not the case. The community had a very minimal role when it came to protecting their interests. Now, PESA in many ways was very, Very hopeful in terms of granting autonomy to the communities, protecting their interests, and reversing the various injustices that the communities have experienced. Now, through these lectures and in the last lecture, you will see that in India, there are different structures of autonomy being enforced in tribal areas.

The two most important structures we talk about are the Fifth Schedule and the Sixth Schedule. They continue to be the architecture of tribal autonomy. Beyond that, several states like Mizoram, Nagaland, and even Manipur have special constitutional provisions under Article 371A, Article 371C, and Article 371G that specifically address these particular states where they are enforced. Within that, even in the state of Mizoram, although it is a tribal state where tribes constitute the majority, there are inter-tribal tensions, as the Lai, Sangma, and Mara

communities seek protection from the dominant Mizoram communities. The Sixth Schedule, in some sense, serves as a way to protect their interests, as any laws cannot be directly implemented in the scheduled areas, giving them some form of protection.

Likewise, today in Assam and Tripura, many tribal communities are under the provisions of the Sixth Schedule. These different structures of autonomy have been implemented in Northeast India, which protect and preserve the rights of tribal communities. In the Fifth Schedule areas, this was not necessarily the case. Therefore, there continues to be resentment against the provisions of the Fifth Schedule, leading to activism demanding that the structure of autonomy be revamped. This led to the introduction of PESA, which recognized the power of the community by granting significant authority to the Gram Sabhas.

Today, when examining the entire structure of autonomy, one cannot ignore the history of colonialism and how colonial laws continue to influence the autonomy framework in tribal areas. In the following lectures, we will explore different constitutional provisions pertaining to tribal communities, emphasizing the importance of understanding their historical context. At the same time, we will examine how these provisions have been modified, adjusted, and readjusted over time. With this, I will conclude my lecture. Thank you so much.