

## Tribal land alienation: A sociological analysis

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### Abstract

Different tribes have their own cultures-dialects, life styles, social structures, rituals, values, etc. The forest occupies a central position in tribal culture and economy. The tribal way of life is very much dictated by the forest right from birth to death. It is ironical that the poorest people of India are living in the areas of richest natural resources. Historically, tribes have been pushed to corners owing to economic interests of various dominant groups. Land as a prime resource has been a source of problem in tribal life because of two related reasons, first, Dependency, i.e. tribal dependency on land and second, improper planning from government agencies.

Tribal people in India can be classified on the basis of their economic pursuits in the following way: Foragers, Pastoral, Handicraft makers, Agriculturists, Shifting hill cultivators, Labourers and Business pursuits. All of these occupations involve direct or indirect dependency on land. Land rights and changes in rules go unnoticed. Tribals are unaware or are made unaware about the rules which governs India's land rights. Tribals do not have access to land records, not even the Record of Rights. This lends them to a higher probability of getting exploited, by the non-tribals and in some cases by the local officials. Wherever lands are given yet the pattas are not given, or pattas handed over yet the land is not shown. There is a discrepancy in demarcation of Scheduled Areas. In some places it is village wise and in some places it is area wise.

The twin factor responsible for land alienation is:

- (a) Economic poverty of tribals
- (b) Simplicity and honesty of tribals.
- (c) Unawareness of forest act, illiteracy, poverty,
- (d) Absence of banking facilities in tribal areas are the other reasons of land alienation.

Despite Government initiatives and developmental projects the existing socio-economic profile of the tribal communities is low compared to the mainstream population. All forms of social exclusion and a high degree of deprivation are the major problems faced by the tribal community in Kerala. The Constitution of India makes special provisions for socio-economic development of the tribal groups. It is also a fact that pre-independent and post independent governments in our state could not and did not do much for the upliftment of the marginalized groups. The actions of successive governments in Kerala unfortunately failed to solve the tribal issues. These groups have very limited capability to act as strong pressure groups in Kerala politics, because of the poor organizational strength; and bargaining power. Consequent to this, the political bodies seldom take care of their concerns.

**Keywords:** alienation: tribe, non-tribal, benami

### Introduction

The term 'tribe' is derived from the Latin word 'tribes', meaning the 'poor or the masses'. In English language the word 'tribe' appeared in the sixteenth century and denoted a community of persons claiming descent from a common ancestor. The word 'tribe' is generally used for a socially cohesive unit, associated with a territory, the member of which regards them as politically autonomous. Often a tribe possesses a distinct dialect and distinct cultural traits. Tribe can be defined as a "collection of families bearing a common name, speaking a common dialect, occupying or professing to occupy a common territory and is not usually endogamous though originally it might have been so".

According to R.N. Mukherjee, "a tribe is that human group, whose members have common interest, territory, language, social law and economic occupation". Scheduled Tribes in India are generally considered to be 'Adivasis,' meaning indigenous people or original inhabitants of the country. The tribes have been confined to low status and are often physically and socially isolated instead of being absorbed in the mainstream Hindu population. Psychologically, the

Scheduled Tribes often experience passive indifference that may take the form of exclusion from educational opportunities, social participation, and access to their own land. All tribal communities are not alike. They are products of different historical and social conditions. They belong to different racial stocks and religious backgrounds and speak different dialects. Discrimination against women, occupational differentiation, and emphasis on status and hierarchical social ordering that characterize the predominant mainstream culture are generally absent among the tribal groups.

Different tribes have their own cultures-dialects, life styles, social structures, rituals, values, etc. The forest occupies a central position in tribal culture and economy. The tribal way of life is very much dictated by the forest right from birth to death. It is ironical that the poorest people of India are living in the areas of richest natural resources. Historically, tribes have been pushed to corners owing to economic interests of various dominant groups. The tribes are a part of the Indian society and general problems of consciously changing or modernizing Indian society are applicable to them. Before independence, tribes enjoyed an almost untrammelled control

over forestland and its produce for their survival. Forest offered fodder for their cattle, firewood to warm their hearths, and above all a vital source of day-to-day sustenance. The wonderful equation between man and nature demolished after independence with the encroachment of rapacious contractors on tribal land and the indiscriminate destruction of forest in the name of development. A tribe is an Indian group which possesses certain qualities and characteristics that make it a unique cultural, social, and political entity. The nature of what constitutes an Indian tribe and the very nature of tribes have changed considerably over the course of centuries, but certain characteristics have remained. A tribe is viewed, historically or developmentally, as a social group existing before the development of, or outside of, states.

There are as many as 573 tribes and sub tribes in India. They have been broadly classified into different classes, groups depending upon their present state of development and factors namely, mode of living in forest, shifting villages, forest villages, community villages and revenue villages. They have got a heterogeneous cultural pattern with variegated economic condition and activities largely based on ecological settings and ethnic Environment. The basic economic activities of the tribes may be classified under the following heads. (1) Food gathering, (2) Pastoral, (3) Shifting hill cultivation, (4) Handicrafts, (5) Cultivation, (6) Trade and Commerce, (7) Labour.

### **Land Alienation as a Concept**

As per Marx, in a Capitalist society an alienated man lives in an alienated nature and he performs estranged labour and the product of his labour becomes alien to him. Alienation as a concept is used by many social scientists in India, merely as a sociological phenomenon. Since land alienation is the crux of the depeasantization of the tribals, the concept assumes utmost importance in the analysis of tribal rights as a part of human rights discourse. The problem of land alienation is a much deeply connected phenomenon with full of contradictions related to the existing socio-economic order. The separation of land from the tribal communities can be understood in a more scientific way with the assistance of the theoretical formulations of the concept of alienation.

Alienation was defined by Hegel and was used by Marx to describe and criticise a social condition in which man far from being the active initiation of the social world seemed more a passive object of determinate external processes. Marx says, alienation is fundamentally a particular relation of property, involving involuntary surrender to antagonistic other. Alienation is inherent in exploitative relations of production and its nature varies with that of exploitation. Hence alienation's manifestations also differ among societies based on slavery, serfdom and capitalism etc. Thus the concept of alienation may be interpreted to understand a specific problem of the tribals where land becomes the primordial source of exploitation and results in the creation of a society where exploitative production relations exit.

### **Problem of land alienation**

Land as a prime resource has been a source of problem in tribal life because of two related reasons, first, Dependency, i.e. tribal dependency on land and second, improper planning from government agencies. Tribal people in India can be classified on the basis of their economic pursuits in the

following way: Foragers, Pastoral, Handicraft makers, Agriculturists, Shifting hill cultivators, Labourers and Business pursuits. All of these occupations involve direct or indirect dependency on land. Land rights and changes in rules go unnoticed. Tribals are unaware or are made unaware about the rules which governs India's land rights. The tribals do not have access to land records, not even the Record of Rights. This lends them to a higher probability of getting exploited, by the non-tribals and in some cases by the local officials. Wherever lands are given yet the pattas are not given, or pattas handed over yet the land is not shown. There is a discrepancy in demarcation of Scheduled Areas. In some places it is village wise and in some places it is area wise. There should be a clear village-wise demarcation of the Scheduled Area to avoid ambiguities and exploitation of tribal lands. Some of the tribal villages surrounding the Scheduled Areas are administratively called the Tribal Sub-Plan Areas, where land alienation is high and has numerous pending cases. Land restoration and issuing title deeds to tribals as per Land Transfer Regulation (LTR) Act should be implemented immediately in all these areas. This issue has to be immediately addressed, since only land situated in those villages that fall within the Scheduled Areas enjoy the protection under the LTR Act.

Lands are being taken over by non-tribals; while the tribals have no access to their ancestral lands. In fact, The Endowments department has plans to auction such lands to private bidders. These developments are in contravention of the Fifth Schedule and the LTR Act and therefore such moves should be withdrawn forthwith. Non-tribals are using Court stay orders, and even acknowledgements from the High Court to halt the restoration of lands in LTR cases. Steps need to be taken to ensure that stay orders do not stall the restoration process. One possibility would be to enshrine the LTR Act under the IX Schedule of the Constitution.

Non-tribals are taking possession of lands in Scheduled Areas by marrying tribal women. Most often, the tribal women, who are legal owners of lands and yields, become concubines and are denied all enjoyment over such rights by the non-tribal men. The children of a non-tribal father should not be given tribal status as most of the tribal groups in the country follow a patriarchal system of identity and ownership over property. It was felt that this system should be followed in the tribal area as well in order to prevent land alienation. Section 3(1) of LTR Act should be accordingly amended prohibiting transfer of land to children of tribal women married to non-tribal men. Land alienation within tribes is a serious problem. A special protection should be provided for the local tribes by a process of categorization of tribes both for the purpose of preventing land alienation from lesser-developed tribes, and for a more equal distribution of reservations and other constitutional provisions. As commons are difficult to manage, tribal people have frequently been denied from their rights over land. Their compulsion leads to a situation where tribals purchased seeds and other components from local money lenders in loan which ultimately displaced them from their lands due to chronic indebtedness.

The unsatisfactory state of land records contributed a lot to the problem of land alienation. The tribals were never legally recognized as owners of the lands which they cultivated. The second form of land alienation is reported to have taken place due to 'benami' transfers. Another form of land alienation is related to the leasing or mortgaging of the land. To raise loans

for various needs the tribals have to give their land as mortgage to the local moneylenders or to the rich farmers. Encroachment is another form of dispossessing the tribals of their lands and this is done by the new entrants in all the places where there were no proper land records. Bribing the local Patwari for manipulating the date of settlement of land disputes, ante-dating etc., are resorted to claim the tribal lands. However, being the natural owners of forests and its adjoining lands the tribals are being deprived of their rights to own them. They have been relegated from their earlier 'self-reliant' status to a 'dependent' one. Coupled with the exploitation by the non-tribals, the State legislations also proved detrimental to their interests. Therefore to understand the root causes of the land alienation process of the tribal communities its relationship with the changes in the socio-economic structures have to be understood properly.

Strong tribal movements and protests have resulted in Supreme Court's decision of forming 6<sup>th</sup> schedule and 5<sup>th</sup> schedule to protect tribal people from outsiders exploitation.

Analysis of forest policies show historically forest has been seen as a commodity. It was a view primarily related to colonial administrators. In post colonial period forest is continued to be viewed as a commodity but there was substantive concern for forest protection. This protection initiative ultimately resulted in forest protection at the expense of tribal rights. Indian tribes have historical connection with forest. They are functionally and emotionally attached to the forest. Functionally they collect Food, Fuel and Fodder three most vital ingredient of their daily life. The Forest Charter, 1855 first time put restriction on the exploitation of forest by tribal people. Subsequently acts of 1878, 1898, 1927 and 1935 have systematically reduced tribals access to and command over forest. While tribes gradually lose their access increasing commercial exploitation increased.

After independence, the nature of the acts remained largely the same until 2006. When the demands of modern industries situated outside the tribal areas led to the commercial exploitation of forests. These became then an important source of revenue in the state, and to regulate the extraction of timber and other produce large forest areas were designated as "reserved" and put under the control of a government department. Tribal communities dwelling in enclaves inside the forest were either evicted or denied access to the forest produce on which they had depended for many necessities. Thus arose a conflict between the traditional tribal ownership and the state's claim to the entire forest wealth. Numerous revolts were the direct result of the denial of the local tribal's right in the forests which they had always considered their communal property. While they were forbidden to take even enough wood to build their huts or fashion their ploughs, they saw contractors from the lowlands felling hundreds of trees and carting them off, usually with the help of labour brought in from outside. Where tribals were allowed access to some of the forest produce, such as grass or dead wood for fuel, this was considered a "concession" liable to be withdrawn at any time. The traditional de facto ownership of tribal communities was now replaced by the de jure ownership of the state, which ultimately led to the exploitation of forest resources with total disregard for the needs of the tribal economy. However, in 2006 India reasserted tribal's access and rights over forest land on which they have depended for centuries.

Landlessness has been arguably the major cause of indebtedness among the agriculturist tribals in India. In India 58% of the tribal people Below Poverty Line with a high concentration in states like Andhra, Rajasthan, UP, Bihar, Orissa and West Bengal. The land alienation with its long history has natural consequence of indebtedness, which further lead to dispossession of tribal land. The poverty, land alienation indebtedness and landlessness is working a cyclical way. Economically indebtedness is an outcome of deficit family income and social compulsions. Since ethnographic study has shows the self contained tribal life among the hunters and gatherers and their lack of concept of loan and interest, it is reasonable to believe that indebtedness is an outcome of interaction between non tribal and tribal people. The tribal's lack of education and understanding of loan and interests have provided the incentives to the non tribals to systematically exploit them.

### Forms of Land Alienation

The first and foremost is the manipulation of land records. The unsatisfactory state of land records contributed a lot to the problem of land alienation. The tribals were never legally recognized as owners of the lands which they cultivated.

The second form of land alienation is reported to have taken place due to 'benami' transfers. The report of the study team of the Union Home Ministry (May 1975) pointed out that large scale transfers of ownership of the Adivasis' lands are being allowed to go out of hands through illegal and benami transactions, collusive civil proceedings etc., in which land remains to be in the names of the original owners who are reduced to the level of share croppers.

Another form of land alienation is related to the leasing or mortgaging of the land. To raise loans for various needs the tribals have to give their land as mortgage to the local moneylenders or to the rich farmers.

Encroachment is another form of dispossessing the tribals of their lands and this is done by the new entrants in all the places where there were no proper land records. Bribing the local Patwari for manipulating the date of settlement of land disputes, ante-dating etc., are resorted to claim the tribal lands. Concubinage or marital alliance is another form to circumvent the law and grab tribal lands at no cost at all.

Fictitious adoption of the non-tribals by the tribal families is also another method to snatch the lands of the tribals.

The slackness in the implementation of the restrictive provisions also encourages the non-tribals to occupy the tribal lands.

Lands alienation which takes place in various ways has assumed alarming proportion threatening the right to life of the tribal population. Though the problem lies elsewhere, it is being unfortunately always interpreted as the handiwork of certain individuals like the moneylender, traders, land lords, etc, without understanding the class connection of these individuals. The unsystematic land records of the pre-colonial and colonial periods was followed by the present State. There was collection of 'taxes - (a strange phenomenon for the natives and it was the beginning process of alienation) in the tribal areas.

In the name of protecting the interest of the tribals stringent laws were enacted by the government but the non-tribals found the loopholes to their advantage. This double edged nature of State policy in one of the facets of the existing

contradictions in the Indian Tribal Society. The process of land alienation is not an accidental one, but it has arisen because of the concerted efforts of the antagonistic class interest that are operating in the tribal areas. This is not just migration of the non-tribals into tribal areas rather there is a history behind this migration and the State has supported the migrant non-tribals to settle down in the tribal lands.

However, being the natural owners of forests and its adjoining lands the tribals are being deprived of their rights to own them. They have been relegated from their earlier 'self-reliant' status to a 'dependent' one. Coupled with the exploitation by the non-tribals, the State legislations also proved detrimental to their interests. Therefore to understand the root causes of the land alienation process of the tribal communities its relationship with the changes in the socio-economic structures have to be understood properly.

Transfers of tribal land to non-tribals have been taking place in the tribal areas of the country for a long time. The problem has existed in varying degrees in the tribal areas of the various states. A member of existing laws not allowed the transfer of land from tribals to non-tribals; or in some cases, all transfers are banned; unless permitted by an appropriate authority but some practices may lead to transfers.

Alienation of land not only deprives several tribal communities of their means of livelihood, but also sometime leads to serious law and order problem. Tribal lands have been acquired by non-tribals through loopholes in the law and through various illegal and fraudulent means - at times by way of oral transactions which have no legal sanction. In complete and unsatisfactory land records have merely aggravated the problem of land alienation (Dubey S.N, Murdia Ratan, 1977).

Land alienation in tribal areas is caused by rampant indebtedness among the tribals and by their deep seated honesty informal and informal dealings. Unless indebtedness is checked, there will be no permanent solution of the problem of land alienation. Several high power committees such as the Baua and Appu Committees have examined the issue and have made several recommendations to solve this problem. The committee suggested that production and consumption credit should be made available to tribals in an integrated manner at the field level with a view to ensuring that they keep away from moneylenders.

### Causes of land alienation

Lack of legislation to prevent the passing of tribal land into the hands of non-tribals has added tribal unrest. Due to some loopholes in the existing system of law the tribal land continues to be alienated to non tribals for their own exclusive uses. The state Government also acquired tribal land for industrial, irrigation, power, mining, and other projects. As a result, the tribals have been deprived of their rights over the land. The backward communities incur debt almost entirely for non-productive purposes mostly to meet day-to-day expenditures. The forward communities have incurred debt mainly for farm purposes. The level of indebtedness is more among them than the backward communities. Borrowings as the main source of meeting hospital expenditure of high percentage of tribal population. They cite financial incapability as a major hindrance to using health-care facilities. This is so when treatment is free in government hospitals and cultural aspects are found to be not roadblocks in accessing health care. The problem is their inability to meet

incidental expenses such as travel, bribes to doctors and boarding and lodging of bystanders associated with treatment. The twin factor responsible for land alienation is:

- a) Economic poverty of tribals
- b) Simplicity and honesty of tribals.
- c) Unawareness of forest act, illiteracy, poverty,
- d) Absence of banking facilities in tribal areas are the other reasons of land alienation.

### Conclusion

Despite Government initiatives and developmental projects the existing socio-economic profile of the tribal communities is low compared to the mainstream population. All forms of social exclusion and a high degree of deprivation are the major problems faced by the tribal community in Kerala. The Constitution of India makes special provisions for socio-economic development of the tribal groups. It is also a fact that pre-independent and post independent governments in our state could not and did not do much for the upliftment of the marginalized groups. The actions of successive governments in Kerala unfortunately failed to solve the tribal issues. These groups have very limited capability to act as strong pressure groups in Kerala politics, because of the poor organizational strength; and bargaining power. Consequent to this, the political bodies seldom take care of their concerns. Therefore the government should take steps towards developmental activities in all oorus, including provisions for water supply, bus services and roads, constitute a "Special Land Tribunal" to redress the grievances related to land alienations and Prevention of any further alienation of adivasi lands, ensure that the adivasis have full and complete control over their lands and its produce and various insidious practices of non-adivasis to take control of the land and their produce should be dealt with firmly.

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