

Claiming Indigenoussness in India

Raphaël ROUSSELEAU

In 2003, India has created a National Commission for the Scheduled Tribes, the name given to its indigenous populations. Have the *Adivasi*, the other name for the Scheduled Tribes, really benefited from the Commission's policies? There, as in many other issues in India, the problem lies in local politics.

India recognizes 462 "Scheduled Tribes" within its territory, also called *Adivasi* or "first inhabitants." The country also signed the United Nations Declaration of the Rights of Indigenous Peoples in 2007¹, but with the provision/precision that all the inhabitants of India are to be considered indigenous by contrast with the European colonisers. The history behind this paradoxical recognition is complex, as its practical effects remain very limited. This position actually reflects the ambiguity of the Indian postcolonial state, which has attempted to legally uplift its 'tribal' citizens while actually maintaining the marginalization of their communities as minorities. The Constitution of India (1950) distinguished two categories of "Backward Classes:" the Scheduled Tribes (ST) and the Scheduled Castes (SC or *Dalits*). A third division of the population was added more recently: the Other Backward Classes (OBC), corresponding to economically fragile groups. The members of all these classes can benefit from various affirmative action programs offered them by the central government. Yet how effective those are remains controversial, as is the overall efficacy of claiming indigenoussness in India.

The Scheduled Tribes: An Administrative Category Inherited from the Colonial Era

In the Indian Constitution, the Scheduled Tribes are given a purely administrative definition (art. 342, 366-25). A list of the groups entering the category is also given for each federal state. The list brings together the groups regarded as "tribes" during the colonial era. Tribes are defined negatively, as groups that are not "castes." Such a division was (and still is) based on various criteria: social organisation (segmentary v. castes hierarchy), economy and

¹ The United Nations Declaration of the Rights of Indigenous Peoples was signed in 2007 and aims at protecting the 370 million indigenous people living in the world against human rights violations. The Declaration set out numerous individual and collective rights concerning the culture, identity, education, language, health, and economic integration of indigenous people, encouraging states to develop and maintain cooperative relations with these specific populations.

living conditions (mixed cultivation or pastoralism in hilly or dry areas v. rice cultivation in plains), language (Austic or Dravidian v. Indo-aryan dialects), religion (“animism” v. “hinduism”).

The list has also been modified periodically, as new groups can ask to join the group of Scheduled Tribes. The application is made at the departments of Backward Classes of each state. The multilayered definition, and above all the difficult clear-cut division between “tribal” and “castes” social organisations, as well as the official process explain why one can often find some discrepancy between the classification of a same group in different states of the Indian Union.

To be or become a Schedule Tribe entails several constitutional benefits: reserved positions in the educational institutions and in the administration (federal quota of 7,5 % of ST); reserved seats in government bodies: the *Lok Sabha* and the state Legislative Assemblies; the prohibition of the transfer of lands belonging to ST towards non-tribal entities; special welfare programs; the right to conserve its language and culture; to establish educational institutions of its choice. Each state should also offer facilities for primary education in the mother tongue.

Exploitation Despite Federal Protection

The Indian Constitution created a National Commission for the Scheduled Tribes (art. 338-338A), vested with the powers of a civil court for investigation and recommendation. In October 1999, a central Ministry of Tribal Affairs was created as well. The commission coordinates the programs of development issued by the Central Ministries. Its focus is on the welfare of tribal groups, scholarships for their students, and recommendations on the implementation of legislation concerning them.

Part X of the Constitution divides the administration of the tribal populated areas into two domains: the 5th Schedule (and art. 244.1) for the central states (Andhra Pradesh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Chattisgarh, Orissa and Rajasthan); the 6th Schedule (and art. 244.2, 275.1A, 371G) for the historically and geographically more autonomous north-east states of Assam, Tripura, Meghalaya and Mizoram.

Within the first group of states, the Governor is asked to help the *Adivasi* defend their rights (particularly their land rights) and develop the Scheduled areas. He is assisted by a Tribal Advisory Council of twenty members, fifteen of which represent the ST at the state Legislative Assembly. A Backward Classes Department manages aid programs, redistributes funds to the local Development Agencies, and oversees tribal-language primary education. In the states with a strong tribal population (Orissa, Madhya Pradesh, Chhattisgarh and Jharkhand: art.164.1), a Minister of Tribal Welfare is created. The 1996 *Panchayat (Extension to Scheduled Areas) Act*, or *PESA Act* extends the competences of the rural municipalities (*panchayat*) in tribal areas in matters of justice, territory and resources. Under PESA, states have to consult the *panchayat* elected council and the whole village assembly (*gram sabha*) for all development programs, for the acquisition of tribal land, the management of the territory, of water resources and minor minerals.

Within the scheduled areas of the north-east states, District Councils and Autonomous Regional Councils have the power to legislate, with the approval of the governor, on land transfer and use, forest use, water resources, village administration, health, the succession of chiefs, marriages, divorces, succession and social customs. The councils also function as an appeal court for the tribal population under their jurisdictions; establish primary schools; manage funds; collect taxes; negotiate mineral prospection and extraction in their territory.

However, these measures are still waiting to be properly implemented, and have met with several types of criticism or opposition. The National Commission for the ST has been given neither financial, nor administrative autonomy. The Ministry of Tribal Affairs has been criticized by the Parliamentary Standing Committee on Social Justice & Empowerment for the insufficiency of its measures. The transfer of lands from ST to non-ST hands has gone on thanks to various legal loopholes and the lack of education among tribal peasants. Confronted to teachers' absenteeism in rural areas, elementary education in the mother tongue also depends on the good will of the states which, defined linguistically, promote above all the regional majority's language. Generally, Indian politicians resent PESA's emphasis on local autonomy as a limitation of their power; and they question the relevance, for Indian democracy, of keeping or restoring "customary" laws and structures of power, such as the village or district chiefs in Jharkhand.

States themselves have played an enormous role in alienating tribal land. The 44th Constitution amendment of 1978 removed property rights from the list of fundamental rights, while the article 300-A gave states the right to requisition lands. From the 1990s onward, in the context of the neoliberal reforms, Indian ST were displaced to make room for the exploitation of water, forest and mines. While the Scheduled Tribes constitute 8% of the total population of India, they represent 40 to 50 % of the peoples displaced by dams since the independence, the most famous case being that of the Sardar Sarovar, on the Narmada river, where two thirds of the 240 000 displaced belonged to the ST (Baviskar 1995). The effects of displacement were further compounded in this case by insufficient compensation and restricted access to water.

Indian forestry, with its colonial background, has looked down on such traditional practices as fruit collection or "slash and burn" cultivation as economically irrational and wasteful. Collection of Minor Forest Products (seeds, honey, leaves etc.) is recognized, as are the rights and the knowledge of rural populations, thanks to a 1990 Joint Forest Management program. The 2006 Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules also recognize family and collective land rights in forest areas for ST and other forest dwellers living off the forest. An important evolution on paper, this federal law remains, however, largely unimplemented by regional state governments.

Dams and large-scale deforestation have fed the needs of the mining industry, which has looked for new resources on highlands inhabited by Scheduled Tribes. True, the industrial legislation (*Extractive Industries Review*, 2004) has integrated the necessity of the Free Prior Informed Consent. But the public hearings that have been organised remain under the tight control of mining companies. Similarly, while the "Samata" Supreme Court Judgment (which in 1997 pitted the Samata NGO against the state of Andhra Pradesh) requires that only tribal-owned

or public sector companies acquire tribal land, international corporations have found ways to turn these constitutional guarantees by operating in joint venture with state-owned mining companies (Padel & Das 2010). The National Mineral Policy of 2008 reasserted the primacy of the mining industries for the economic development of the country. The unique protective measure imposed on them was to integrate their project in the *Sustainable Development Framework* a set of environmental requirements, and to guarantee their “social responsibility” vis à vis neighbouring communities. But the majority of the districts producing minerals remain among the poorest in India; the same areas are among the most affected by violent confrontations between special forces and Maoists (Naxalites).

The *de facto* exploitation of tribal resources despite constitutional protections has led V. Xaxa (2008) to speak of a silent *assimilation* of the tribal members of central India, which he contrasts with the socio-political *integration* that greater self-determination has allowed them in the Northeast states.

The Assertion of an Indigenous Identity?

Despite its Sanskrit etymology, the term *Adivasi* was coined in Munda² militant and social workers circles around 1920 (A.V. Thakkar); its use spread to governmental publications under Nehru in the 1950s. Like *harijan* (“children of God” or “children of Krishna”) or *dalit* (“oppressed people”), two terms coined to designate the former “outcastes,” *Adivasi* was to give a positive definition of the tribal populations as the “first inhabitants” or the “aboriginals” of India.

Among the settled *Adivasi*, the founding lineage of a village is commonly styled the “peoples of the earth” (*Bhumiya*, *Bhuinhar*), by contrast with the later inhabitants, who depend on them for the cultivation of local lands. In some of the former Indian kingdoms, these status and titles were ritually granted to a representative of the main tribal lineages. They represent the truest indigenous basis for the modern division between “aboriginal” and secondary populations. Still, all the ST or *Adivasi*-labelled groups are not necessarily indigenous in the area they presently inhabit. Academic and institutional debates on indigeneity in India (Xaxa 2008) have consequently moved from an emphasis on being first on the land towards the acknowledgement of a past experience of dispossession, associated with the claim to socio-cultural difference when compared to majority populations, as well as a strong economic dependence on and cultural attachment to their land. This move towards historical experience and self-assertion also largely follows a pan-Indigenous tendency in the UNO circles.

Present India does not, however, recognize the “indigeneity” of its “aboriginals.” This was not a problem during the Nehruvian era (at least up to 1962 and the Naga insurrections during the India-China War): India ratified, for example, the ILO Convention 107 on Indigenous and Tribal Peoples of the United Nations (1957). In 1989, it refused to sign the ILO Convention 169. One of the probable reasons was that in 1987, delegates from India had started participating

² An Adivasi minority, speaking an Austric language and inhabiting mostly in the states of Jharkhand, Orissa and West Bengal.

in the meetings of the Working Group on Indigenous Peoples (Karlsson 2003, 2008) and the United Nations Permanent Forum on Indigenous Issues. The first Indian organisation on the international scene was the Indian Council of Indigenous and Tribal Peoples, formerly lead by Professor Ram Dayal Munda. The ICITP tried equating the Indian term *Adivasi* or “tribe” with “indigenous people” in order to benefit from international standards. Competition with other tribal organisations started developing in the 1990s, with the creation of the All India Coordinating Forum of Adivasi/Indigenous Peoples, which was followed by various other “*Adivasi* and indigenous” organisations formed for specific interests: the independence of the Naga, a separate federal state for the Bodo, the promotion of education or literature, respect the of women’s rights, protesting violence in the Naga/Bodo and Naxal areas, mine and dam projects, etc. With the exception of a minority favouring independence, these organisations have mostly criticized the paternalist welfare and development framework of India’s tribal policies. They have emphasized the full recognition of their right to self-determination and control over their lands & resources, and the implementation of the “Free Prior Informed Consent” in case of displacement, with compensation in land rather than cash.

Is claiming indigenusness in India a productive strategy? Most of the Indian intellectuals insist upon equality of rights for all citizens, without “ethnic” or cultural division. But the domination of regional state majorities in local political arenas and the lack of implementation of the federal provisions explain why the tribal minorities try to invest alternative arenas – for some of them, Maoist rebellion (but confronting them with another form of cultural standardization) or indigenous international forums. A. Shah (2007) showed that the separate assertion of the Adivasi of Jharkhand has contributed to deepening divisions in local communities and can turn against their own interests. For the North-East, B. Karlsson (2003) is more nuanced, recognizing the risk of “ethnicisation” of the debates, but considering that the gain is still more important, particularly in building an Adivasi political consciousness. Beyond tribal identity, one of the key issues is clearly the local autonomy in decision making, in front of larger economic interests.

Further Reading:

Website of [the National Commission for the Scheduled Tribes](#)

Related articles already on Books & Ideas:

Jules Naudet, "[Castes, untouchability and social success in India](#)", 18th March 2010.

Pauline Peretz, "[Comparing Race and Caste](#)", 1st October 2011.

Jules Naudet, "[Ambedkar and the Critique of Caste](#)", 5th November 2010.

Amita Baviskar, *In the Belly of the River: Tribal Conflicts over Development in the Narmada Valley*, New Delhi, Oxford University Press, 1995.

Bengt G. Karlsson, “Anthropology and the ‘Indigenous Slot.’ Claims to and Debates about ‘Indigenous Peoples’ Status in India,” *Critique of Anthropology*, SAGE Publications, 23 (4), 2003: 403-423.

Bengt G. Karlsson, “Asian Indigenusness: the case of India,” *Indigenous Affairs*, 3-4, 2008: 24-30.

Felix Padel & Samarendra Das, *Out of this Earth. East India Adivasis and the Aluminium Cartel*, New Delhi, Orient Blackswan, 2010.

Alpa Shah, "The Dark Side of Indigeneity? Indigenous People, Rights and Development in India," *History Compass*, 5 (6), 2007: 1806-1832.

Virginus Xaxa, *state, Society and Tribes. Issues in Post-Colonial India*, New Delhi, Pearson Education, 2008.

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