

Indigenous and Tribal Peoples in World System Perspective

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TODAY'S WORLD SYSTEM AND HISTORY'S MANTLE ON INDIGENOUS AND TRIBAL PEOPLES

Since late 18th century nation-state has step by step emerged as the most visible player on the world stage. After the Second World War there has been both proliferation and erosion of nation-state as an institution. The requirements of the war forced the conflicting colonial countries to accommodate many of the aspirations of the colonised peoples and slacken their grips. In the post-war period within 25 years these peoples could throw out the colonial masters and in the model of the western nation states build their own state structures and joined the United Nations as member-states. They expected that technological progress achieved in the world by that time would be available to them and the conditions of life of their peoples, wrecked through colonial exploitation would improve substantially. Instead, the gap between the rich countries and the poor ones continued to widen. To meet the situation the underprivileged countries (generally called developing countries) established in 1964 a unified group of 77 and initiated moves for the establishment of two international organs, UNCTAD and UNIDO. The organisation of the petroleum exporting countries (OPEC) also worked for reducing the power of the Western cartels. In 1974 the disadvantaged countries could get a declaration on a New International Economic Order (NIEO) adopted by the United Nation General Assembly. The very first Article of the Declaration Stated that "the benefit of technological progress are not shared equitably by all members of the international community. The gap between developed and developing countries continue to widen". The Declaration contained 20 points.

By 1979 the politically and economically advantaged countries (so called developed countries) managed to set aside the Declaration and in its stead put on the agenda a wholly different approach dealing with "globalisation, marketisation and privatisation". This has resulted

in economic crises for most of the world, giving birth to "burning economic, social, political and even military conflicts during the last quarter of the 20th century" (Patel, 2000).

The GDP ratio between the richest and poorest countries was 3:1 in 1820, 11:1 in 1931, 35:1 in 1950, 44:1 in 1973 and 72:1 in 1992 (Mayur, 2000).

Globalisation in unequally structured global economy reflects imperialist impulse of capitalism involving social coercion of labour and restructuring state machinery to serve large corporations (Roy Choudhury, 1999).

Theo Ben Guirab, President of 54th session of UN General Assembly in his opening remark observed that globalisation and unrelenting powers of transnational corporations were overwhelming governments, especially in the developing world (Guirab, 1999).

Camdessus (2000) the chief of IMF in his last address before lying down the office admitted that whereas globalisation was expected to improve the human condition throughout the world it had "operated at the whim of more or less autonomous financial and technical forces". Samir Amin however identified Bretton Woods Institutions (IMF and World Bank) led by WTO as the hegemonic apparatuses of the American supremacy in the postwar world system in the name of globalisation (Anived, 1999).

When Reagan came to power in USA in 1981, these institutions were harnessed to the project of "Structural Adjustment Programme" (SAP). International peoples' Tribunal of G7 in their Tokyo verdict in 1993 have identified the consequences of SAP as follows: sharp increase in unemployment, fall in remuneration of work, increase in food dependency, grave deterioration in environment, health care system, democratic system, and continued growth of external debt (Samir Amin, 1997: 12-13). Further, globalisation has led to the erosion of autocratic nation state. (ibid p3). An illustration of this has been provided by Idemyor (1999). In Ogoni region in Nigeria when people vehemently protested against massive ecological degradation caused by the Shell (Royal Dutch/Shell group) MNC, the federal army

unleashed a reign of terror. It is alleged that there are documentary evidences that Shell directed the Nigerian army to enter Ogoni. Also Shell has admitted to have brought weapons of the Nigerian army.

Now-a-days even UN is seen to partner with big business (ibid). In February 2000 AD, Kofi Annan, Secretary General of UN and International Chambers of Commerce issued a joint statement in which they declared "The United Nations and the business community should work jointly to expand economic opportunities especially in countries which may face marginalization". The statement called on the UN and corporations to develop 'partnership' to advance this agenda (Boli: undt).

All these indicate the need of a paradigm shift from a state-centric paradigm to an alternative paradigm (Vasquez, 1998, p21). Based on Keohome and Nye and also Morgenthau, he makes a mention of realist paradigm and behavioural revolt paradigm. The realist paradigm is basically power-centric paradigm: in contrast behavioural revolt paradigm contains space for more open approach. In case of the indigenous and tribal peoples this is of particular relevance. Before turning to the alternative paradigm a statement made by Samir Amin (op cit., p22) would be quoted.

"Economic globalisation logically requires the construction of a world political system able to respond to the challenges of a power system capable of managing social compromises at the world-wide level just as national states manage them at their level. However capitalism is unable to overcome the growing contradiction between its economic management in an increasingly globalized space and its political and social management which remains fragmented among national space". I would like to add a caveat here. I accept Samir Amin's project of an alternative power system in so far as the same can be dialectically used to move beyond power system. In this I feel that history's mantle has been vested with the indigenous and tribal peoples (Roy Burman, 1994: 25). How they will discharge their responsibility depends on how they define their self and their task.

INDIGENOUS - MEANING OF MAY MEANINGS

The term "indigenous" peoples or population

is used in various senses. It should be mentioned that there is a fundamental epistemological and political sociological difference in the choice of the appendage "people" or "population". There is also a fundamental difference almost at the level of praxis-compact, in the use of the term 'people' or 'peoples' I shall first concentrate on the term "indigenous" without the appendages.

Three major senses in which the term indigenous is used are: (1) chronological (2) relational and (3) normative.

When used in chronological sense indigenous means earliest inhabitants if not autochthones. In 1953, in its publication "Indigenous peoples: living and working condition of aboriginal populations in independent countries". The International Labour Organisation (ILO) while recognising that "every country has approached the problem of definition according to own tradition, history, social structure, politics etc" decided in favour of self identification as the critical procedural requirement. At the same time ILO takes the position that an "indigenous person is one of autochthonous descent who claims membership in a tribe or indigenous group. Forty years on, ILO still finds this as the best workable approach" (ILO, 1994, p18). It is not clear here "this" refers to what? Is it "self-identification" or autochthonous descent"? Elsewhere in the same publication indigenous seems to have been equated with 'tribe'; but 'tribe' as such is not equated with indigenous in Asia and Africa where those who identify themselves as tribals may not "necessarily pre-date other peoples" in the same areas. Though loosely described, it is obvious that while ILO uses the term indigenous in chronological sense, it does not use the term universally for the same or analogous category of social entities. (here I have deliberately used the word "social entity" because ILO has used the word 'group' and 'people' in the same sentence and I am not sure whether it is by choice or whether it is only a matter of loose drafting).

Use of term 'indigenous' in relational sense is more common. As described by ILO (ibid p2) "indigenous and tribal peoples occupy almost without exception in the North and the South a poor and marginalised position in national societies. There are some indigenous and tribal peoples who until recently lived in isolation and whose traditional way of life is being slowly torn apart. In other regions of the globe, their resource

base has been severely eroded and no alternative means of subsistence has been provided. Elsewhere, they may be better off but still form the lowest social strata.” Other sources also speak in the same vein and focus on their isolation, techno-economic backwardness, distinctiveness from the dominant culture of the country and marginalisation. Many peoples like the Pacific Islanders settled in USA or the descendants of the Portuguese pirates of the 18th century now settled in West Bengal of India, display most of these attributes. But they would not identify themselves as indigenous or tribals; nor their neighbours would accept them as such.

“Indigenous” in the normative sense is alluded to by many rather in a vague manner. In a statement issued by 20 social scientists who gathered in the Institute of Advanced Study, Shimla in 1993 an attempt was made to highlight the contour of the normative attributes of the indigenous. It runs as follows “We feel, the word ‘indigenous’ should be used not in chronological sense but in the normative sense to cover people who feel rooted in their surroundings, entertain a custodial sense about their territory and resources, are bound together primarily through moral bindings and entertain a sense of reciprocity and mutuality reinforced by egalitarian ethos. We consider that in ideal typical cognitive realm, tribe as a social category can be considered to be indigenous in the foregoing sense. But currently the indigenous world-view is progressively encompassing many other collectivities”.

The statement has an element of praxis embedded in it. It combines a model of the indigenous and model for the indigenous. In this perspective indigenous is not a derelict part of humanity requiring to be reclaimed; it is a social-space in which one of the fundamental species-attributes of humans, namely homo sociologicus (Darhendorf, 1968), finds expression. Its projection at the level of conceptualisation and at the level of action-project is a part of agenda for humanist retrieval; in other words of indigenisation of humanity as a whole. Indigenous as presented here is not an exclusivist concept but an inclusivist project

Social Meaning of Three Major Ways of Conceptualisation

Apart from the three major ways of conceptualising the indigenous there are other minor

ways of conceptualisation. Before describing them I would like to reflect over the social meaning of the three different ways of looking into the meaning of the concept ‘indigenous’.

To me it appears that when ‘indigenous’ is projected in a chronological sense it has a power-right dimension attached to it; when projected in relational term it is need right or justice-right which is invoked. Projection of the concept of “indigenous” in normative sense on the other hand is an invocation of companionate value oriented praxis (Roy Burman, 2000).

Each of these approaches has short range and long range action implication which will be discussed later. At this stage other approaches to the recognition of the ‘indigenous’ will be discussed. Here I shall clarify that at this stage I am not considering the definitions or implied concepts as in ILO Convention 107 and 169 and in the Draft-Declaration of the United Nation Working Group on Indigenous population. These would be discussed contextually later on.

Other Definitions of the Indigenous

One of the definitions is a nominalistic one, more or less implying “local” as in case of indigenous technology”. Another definition provided by Douglas Sanders an expert associated with United Nations Working Group on Indigenous Population (UNWGIP) in drafting the declaration can be categorised as “tangential overshooting its mark.” According to him (Sanders, 1993) the entire population of Scandinavian countries are indigenous and when they recognised the Saamis of their respective countries as ‘indigenous’ it was a unique case of indigenous peoples specially recognising within their ambit some people as indigenous. Leaving aside the factual inexactitude of the statement (Sweden has not accorded legal recognition to the Saamis as indigenous) and also its logical fallacy this makes an interesting case. In Europe the entire population of an independent country which was not subjected to colonial domination can be considered as indigenous according to UNWGIP’s recognised expert. But in Asia and Africa or even in Melanesia the entire population of an independent country cannot be considered as indigenous.

A third approach though projected by personnel associated with UN and ILO as the crucial one, is to me nothing but chicken egg dilemma approach. On 12 November 1992 Jullian

Burger, the then General Secretary UNWGP wrote to me "The UN does not recognise indigenous peoples as such. The working group is a public forum open to participants who consider themselves as members of the indigenous peoples" (Roy Burman, 1999: 144). Apparently it means that so far as the forum is concerned "indigenous" hovers in a tabula rasa. But when the Boers of South Africa, practising apartheid at that time turned up with the claim of being indigenous, it caused a flutter. The UN forum took a position that self identification must be endorsed by others who are recognised as the initiators of the indigenous people's right agenda. In other words it gives a veto right to a constellation of peoples. Certainly this not an enviable position.

Saugestad (1999) suggests that the term indigenous can be used in Africa by choice as a matter of strategy. First she admits that the dominant position of the White colonial forces left all of Black Africa in a subordinate position that was in many respects, similar to the position of indigenous peoples elsewhere. Proceeding further she observes "in relation to the colonial powers all native African were (a) first comers (b) non-dominant and (c) different in culture from the White intruders. Moreover local people were associated with natural and 'traditional lifestyles' which are common indigenous attributes, in contrast to the control of technology, manufacturing and development which was associated with the intruders. Thus the dominant Black/White dichotomy in Africa tended to reinforce the notion that all native Africans were indigenous". Even after saying all these, she wants some sections of African people to be specially treated as indigenous in the international forum, as a matter of strategy. One may ask, whose strategy? Is it the strategy of the African themselves in their struggle against the unjust world system? Certainly there are some sections among the indigenous Africans who are more vulnerable. Why not call them more "vulnerable indigenous" rather than denying to the major chunk of indigenous population of Africa the proposed rights and protection in the realm of international law?

Saugestad (ibid p7) observes that in the global picture "Africa and much of Asia represents, special conceptual challenges". When one keeps in view that around 80 per cent of the people identified by experts close to the UN forum as

indigenous inhabit particularly Asia (Burger, 1987). Saugestad's statement sounds curious. Asia and Africa pose "special" conceptual problem if the frame of reference is derived from the minority indigenous population living elsewhere. The frame of reference should have been derived from Asia and Africa: and for the analogous peoples of Europe, Americas and the Pacific Islanders special conceptual formats could have been generated. ILO Convention 169 has to a certain extent been based on this line of approach.

The incongruity of UN approach has been acknowledged by the Indigenous Peoples of Africa Coordinating Committee in its report of 1998 (ibid p8). "If Africans had been at the UN table at the start of the UNWGP process, they could have emphasised that the issue is not aboriginality, but rather the ongoing particular relationship of hunter-gatherers and pastoralists to natural resource management. This relationship which is ancient in character and relatively untouched by colonialism, has shaped cultures, languages and identities. These communities have been stigmatised in post independent African states as backward and unproductive".

Ram Dayal Munda member of the presidium of the Indian Consortium of Indigenous and Tribal Peoples while intervening in the discussion on agenda No. 4 in UNWGIA forum in 1993 spoke more or less in the same wave-length and observed "indigenous in the old and the new worlds are not the same". Further, he stated indigenous and tribal peoples form a single segment when it comes to defining the peoples concerned, particularly in the Indian and Asian Context" (Roy Burman, 1994: 83-84).

Conceptualisation of Tribe

As Munda equates tribe and indigenous in an unambiguous manner it is necessary that the concept of tribe should also be examined.

Among diverse approaches in conceptualising tribe nominalistic, evolutionary, structural and normative ones would be briefly mentioned here.

The nominalistic approach is found in Winik's Dictionary of Anthropology where tribe has been defined as a 'social group, usually with definite area, dialect, cultural homogeneity and unifying social organisation'. There is hardly any community anywhere in the world which could be considered as tribal in terms of the foregoing

criteria. Particularly the concept of cultural homogeneity requires a closer look. Sahlins (1968: VII) considers tribe to be an ethnographic heritage from neolithic times. Tribal peoples and cultures are according to him, evolutionary advances beyond the cultural capacity of hunters. While territorial domains are associated with tribes, territoriality is embedded in society, rather than territory serving as the basis for organisation of society.

This distinction made by Sahlins is of crucial importance for understanding the phenomenon of state indifference in a typical tribal society. With basically evolutionary orientation Godelier (1977) writes that with industrial or post-industrial West at the polar end or close to it, the primitive social formation constitutes the laggards in the evolutionary schema of social organisation. Beteille (1986: 316) presents a composite historical structural and social ecological approach. In his words "being a tribe has been more a matter of remaining outside of state and civilization whether by choice or necessity than of attaining definite stage in the evolutionary advance from the simple to the complex".

In a different context Stegeborn (1998: 329) observes that the concept of state derives from non-native thinking. I have already drawn attention to non-statist world view and social organisation of the tribal peoples. Elsewhere I have questioned the almost teleological prognostication of the tribal peoples as peasants in universalistic term and as castes in Indian context (1983). I argued that while for the early social formations settled cultivation provided more stable source of livelihood over hunting and gathering economy, today many choices being available to non-agricultural peoples with unsophisticated technology, tribe-peasant continuum is not the inevitable process. I also argued that while caste system with its ideological underpinning is at a heavy discount today, caste entities are emerging almost as distinct ethnic entities. In this context tribal peoples are more likely to define themselves as distinct ethnoses rather than component units of a hierarchically ordered caste system.

I was however pursuing another strand of thought even in the 1970s. Analytically and historically, it is possible to envisage that the world-view of communion and reciprocity (rather than that of competition and coercion) between humans inter se and between humans and nature

can be dissociated from any supposedly pristine and any other sequential forms of social organisation. (Roy Burman, 1994a: 62-65). With this analytical orientation I had formulated the concept of post-primitive in 1970s (Roy Burman, 1979).

Currently I am not happy with term primitive. Even though pre-fixed by the word 'post' the word primitive carries with it a negative connotation. Perhaps 'trans-primal' would be a better description.

The concept of tribe as post-primal has important practical implication. Labelling of tribes as lower and higher stages of development with reference to occupation and occupation-based culture loses its relevance in this perspective.

It is the tradition among anthropologists to classify human societies as hunting gathering, pastoral nomads, shifting cultivators, settled agriculturists, peasants, industrial and so on. In this approach level of sophistication in technology is considered as the critical indicator. As, over length of time through the accumulation of experience technology evolves into more effective forms, the society as a whole associated with diverse technologies comes to be graded in an evolutionary frame. But this is myopisation of perception of culture through sectoral association. In this perspective 'culture of appropriation' tends to be considered by many to be superior to the 'culture of sharing'. It does not take care of the relationship with nature and of the total socio-political milieu in which the particular predominant technology-based occupation exists. Taking these dimensions into consideration I am trying to categorise the social types in a holistic manner and locate the tribal social formations in this frame of categorisation.

Tribal Social Formations in an Ontology-Rooted Ethical and Techno-political Frame

The primal hunting and gathering groups were by and large dependent on unstable convivial and ingratiating mode of livelihood; today many of them can be found as linked up with predatory mode of livelihood; similarly the early slash and burn agricultural societies were marked by more stable convivial ingratiating mode of livelihood; the settled cultivators were having a convivial intra-community undifferentiated custodial mode of livelihood; some of them were having intra-society differentiated custodial mode of livelihood with prerogatives of particular lineages and clans;

the city and market linked peasant societies moved towards convivial differentiated custodial mode of livelihood with prerogatives of socially located families or individuals of non-accumulative appropriation; the city and market linked societies could also move towards convivial and at the same time predatory mode of livelihood with prerogative of socio-politically recognised groups or individuals of accumulative appropriation; the colonial industrial societies generated saptral mode of livelihood with prerogative of accumulative appropriation by segments of the society. Today when existence of life on the planet has become problematic because of relentless rape of nature on the one hand and commoditisation of human body and human relations on the other, the highly industrialised and post-industrial societies are pushing ahead multi-layered schizophrenic demiurgic but hidden and some times not so hidden predatory mode of livelihood with a tendency to bring the whole of humanity within its ambit (Roy Burman, 1995:2-3). Irrespective of occupation I would put all convivial non-predatory, non-accumulative societies in the category of tribal peoples even though some extent of appropriation may be involved. As in case of the indigenous peoples, I would thus define tribe in normative terms, rather than techno-economic terms, in isolation.

Conceptualisation of Tribals in ILO Conventions

ILO had adopted two Conventions in respect of the indigenous and tribals: Convention 107 of 1957 and Convention 169 of 1989. Convention 107 has been ratified by 27 countries including India, Pakistan, Bangladesh in Asia. It has force of law under international law. Convention 169 has been ratified only by fourteen countries. The definitions of indigenous and tribals as in the Conventions are furnished at annexures I (a) and (b). Convention 107 refers to tribal and semi-tribal populations and then mentions indigenous populations as a special category within their social orbit. It tends to project a teleological world-view of the tribal and semi-tribal peoples shedding their distinct identity. Though 'indigenous' populations possess tribal and semi-tribal attributes they are defined as distinct international entity being victims of external conquest or invasion. Obviously it refers to the Americas and Oceania.

In the case of tribal and semi-tribal peoples "integration is highlighted whereas in respect of the mainstream indigenous" the focus is negatively on conformity with western social economic or cultural institutions which in other words implies assimilation.

This patronising ethnocentric bias in Convention 107 dismayed many thinking people - tribal or non-tribal. However the ILO Convention 169 of 1989 adopted a different approach. While Article 1 of Convention 169 stipulates self identification as a fundamental criterion it eschews the concept of stage of advancement and focuses on distinctiveness. But it is silent on the nature of this distinctiveness. Besides, while in Convention 107 indigenous social entities have been explicitly stated to be special category of tribal and semi-tribal social formation with a history attached to them, no such link is explicitly mentioned in Convention 169. Because tribal and indigenous peoples have been clubbed together, they may be considered analogous to one another as a logical corollary. But as an empirical reality this may or may not be so (Roy Burman, 1998:2).

The real issue about convention 169 is that while the tribals have been uniformly described as 'peoples', the indigenous were just 'population' before colonisation or conquests or invasions. They became 'peoples' only after conquest. This is curious, considering the fact that in Latin America massive political formations like Aztech, Maya and Inca empires flourished in pre-Columbus era or that during the colonization of America the British crown dealt with the Amerindians in North America as "foreign sovereign nations" (Canby, 1988: 10). The choice of the two words 'people' and 'population' selectively in this Convention does not appear to be fortuitous. If the "indigenous" were just population and not people, the colonial claims of *res nullius* and *terra nullius* were legitimate. The interpretation of the treaties that the colonialists had entered into with the Amerindians (that is now proffered by the Canadian Government for instance) that "these are nothing more than contracts between a sovereign state and its subjects" (Gilbert, 1994: 13-14) would be considered as valid in terms of Convention 169.

All these and the procedure that ILO followed while adopting the Convention raise several nagging questions (Roy Burman, op cit: 10-11). These however will not be considered here.

UNWGIP Draft Declaration of Indigenous Peoples

In 1982 on the initiative of certain West European countries (Sanders, 1989: 415) the Sub-Commission of the Human Rights. Commission on Prevention of Discrimination and Protection of Minorities set up a “Working Group on Indigenous Populations” without defining the indigenous. However a working definition that had been developed in 1972 by a special Rapporteur. Martinez Cobo was used. It is furnished at annexure II (a). Sanders (1993 opcit) alleges that Cobo was not involved in the drafting and the entire work was done by Williamson Diaz, a UN official. This UN draft definition relates primarily to pre-invasion peoples of the Americas, Australia and New Zealand (ICHI, 1987 p6). In 1983 a paragraph was added to the original definition in the name of Cobo to cover isolated and marginal populations (UN Document No. E/CN.4/sub.2.1983/21 Add para 379) (Annexure 11(b)). In one way this marks a clear shift from the 1972 approach. The earlier approach was definitional, the latter one was descriptive. But there is another way to look at the matter. Based on Kunz, Rehman (1998: 74) observes that “colonization is no less colonization if it is made by territorial contiguity rather than by overseas expansion”. It is this perspective that informs the Washington-based Centre for World Indigenous studies. A publication of this Centre has identified 120 indigenous peoples in Europe including Skanians in Sweden, Cornish in Wales, Shetlanders in UK, Basques in France and Spain and number of peoples in Italy and beyond (Griggs, 1993).

In 1986 the definition was restated again in the name of Cobo that “indigenous communities, peoples and nations are those which, having a historical continuity with their pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies, now prevailing in those territories or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generation their ancestral territories and their ethnic identity as the basis of their continuous existence as peoples in accordance with their own cultural patterns, social institutions, legal system (E/CN.4/Sub.2/2986/7 Add 4 para 379).

By recomposing invasion and colonisation as contingent facts the revised definition has moved towards excluding indigenous peoples from the category of indigenous by contiguous (and not only by overseas) conquest. This would exclude the 120 indigenous peoples of Europe listed by the Washington based organisation.

Rehman observes that identification and definition of indigenous peoples has proved to be controversial and politically sensitive. According to the World Council of Indigenous Peoples (perhaps one of the “core” indigenous organisations which served as the moving force behind UNWGIP) “indigenous peoples are native, usually descendants of earlier population of a particular country, composed of different ethnic groups but have no control over the Government”. One wonders whether the dalits (the traditional untouchable castes of India) many of whom claim occupation of several regions of the country prior to the tribal peoples, would be accepted as one of them by the ‘core’ indigenous peoples (Roy Burman, 1998: 4). Swepston (1990: 695) a leading expert associated with ILO observes “the term indigenous is a difficult one implying historical originality”. Further he quotes from the working document of the meeting of Experts on the Revision of Convention 107 (Geneva, 1986) which states that “several countries that have tribal populations which are not considered as indigenous have ratified Convention 107; attempts to analyse the historical precedence of different parts of the national populations would detract from the need to protect vulnerable groups which in all other respect share many common characteristic wherever found”. If it is not an indictment of UNWGIP’s position of foisting the term “indigenous” alone for a category of peoples, with diverse historical contexts but convergence of interests of protecting themselves from a iniquitous, exploitative world system it clearly indicates ILO’s decision to maintain distance from the UN approach. It is in such context that Burger’s position mentioned earlier that “UN does not recognise indigenous peoples as such” and his emphasis on self identification are understandable.

A Related Social Category in the World System - The Minority

For the purpose of the International Covenant on Civil and Political Right, the UN special

Rapporteur Capotorti, defined minority as a “group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics different from those of the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religions or language” (UN sales No. E 91 XIV No.2 para 68). Rehman (Op cit) observes that indigenous peoples in general parlance and in many ways epitomise the minority syndrome. But “while similar concerns are shared as regards both indigenous peoples and other minorities, there remains a pronounced view that indigenous peoples belong to a distinct category” Rehman quotes Thornberry according to whom “in many ways the demands made by indigenous peoples are more forceful with a higher threshold claiming to be more than minorities and asking for an entitlement of two sets of rights, one as an indigenous group and the other as a minority”. Further “there remains an uneasiness that the claims of indigenous peoples if applied generally to minorities may threaten the Globalized World Order”. Taking a clue from the foregoing formation one may ask two questions. First, whether according powerful lobbies indigenous are minorities on whom rights may be conferred without disturbing the established world order? Second, whether such rights can be conferred to reinforce the world order?

As regards the first question doubts have arisen because of the silence of the established campaigners of indigenous rights about the pastoral peoples of Greece, Gypsies (Romans) and Basques of Europe or about the Kurds and Bedouins of the oil exporting countries of West and South Asia. As regards the second question, it is necessary to strike a note of caution. Keeping in view a theoretical position taken by the well-known economist Paul Baran (1957) to the effect that economic development in undeveloped countries is profoundly inimical to the dominant interest in advanced countries. To avoid such possibility, they form alliances with pre-capitalist domestic elites and have easy access to domestic resources and thus be able to maintain traditional modes of surplus extraction.

Raising these questions should not mean that recognition of indigenous and tribal rights is wrong, rather that, the denial of indigenous and tribal rights to many social entities by

manipulating the terms ‘indigenous’ and ‘minority’ is wrong (Roy Burman, op cit p6).

Indigenous and Tribals and Class

Saugestad (op cit) draws attention to an interesting paradox. As she puts it “a focus on class conflict may appear less controversial to many governments because it simply implies a tacit acceptance of the view that the problem of indigenous peoples is one of poverty only”. She wants a paradigm shift in political discourse from economic welfarism to culture-specific epistemologies and ethical and ecological concerns of ethnoses. This seems to be more or less in the same wave-length as informs the holistic typology of societies already presented by me.

Ethnicity in Global System

The brief reference to minority and class as social categories vis a vis indigenous and tribal peoples points towards ethnicity as providing the base for all. It is however not proposed to go in for a comprehensive discourse on ethnicity. As I am examining the indigenous and tribal issue in world system perspective, I shall confine the discourse on the phenomenon of ethnicity in the same frame-work, primarily based on Samir Amin (op cit).

The contemporary world system is marked by growing contradiction between transnationalization of capital on the one hand and the persistence of the idea that nation state is the only political system that has valid existence on the other hand. In this context the strategies of dominant actors that is of capital and dominant classes on the one hand and of the various peoples and popular classes on the other, accentuates the contradiction. This particularly applies to the relation between active labour force and labour reserve in the industrialised centers of the West and the industrialising countries in the periphery. Though in the centres great majority of labour participate in the work force, even they feel not too secure at the competition being faced by them by the shifting character of capital to low-wage peripheries and also by migration from the peripheries. In the industrialising third world coexistence of a growing work-force and a huge labour reserve causes intense and potentially shattering social conflict. Traditional class solidarity hardly

functions in an effective manner, because foot-loose capital in the context of globalisation if faced with too acute confrontation has hardly any stake in geography. It can move out. Besides new technology frequently of production and communication can in many cases bypass the old factory system, allowing production to be done in decentralised manner, requiring only assemblage to be done at the final stage. Large scale concentration of labour as in old style factories is also becoming a passing phase. In this context ethnic groups - based on language, religion, shared history and ways of life become more visible stable structures of mobilisation. Along with other factors this is a contributory factor for the growing interest in the discourse relating to indigenous and tribal peoples.

The substantive formulation on the right of the indigenous and tribal peoples will now be considered with the world political economic system and also ethnicity in various forms as the basic frame of social mobilisation at the back of the mind.

SUBSTANTIVE PROVISION IN RESPECT OF INDIGENOUS AND TRIBAL PEOPLES

ILO Convention 107 of 1957 - Critical Appraisal

The Convention applies to members of tribal, semi-tribal and indigenous populations. It therefore appears to be primarily individual oriented but when it speaks of progressive integration of such population into respective national communities collectivity orientation is also inherent in its formulation, as a secondary byproduct. Its main trust is to improve the living and working conditions of "these populations" by simultaneous action in respect of all factors which have hitherto prevented them from sharing fully in the progress of national community of which they form part. Its modality of action is adoption of general international standards to ensure their protection and also their integration into the respective national communities. While the international standards are to be laid down by the Convention the onus of operationalising the same pertains to the concerned government. While recourse to force or coercion as a means of promoting the integration of the populations into the national community is discounted, the Convention lays down that special measures of protection are not used as a means of creating or

prolonging a state of segregation. At the same time high premium is paid to their value systems, protection of their customs, educational and economic advancement, respect for self-regulatory institutions and civil rights. Most important however are provisions in respect of land and employment. Article II provides that right of ownership collective or individual; of the members of the populations concerned over the lands which these populations traditionally occupy shall be recognised. While involuntary displacement except for national security or economic development or health reason has been discouraged adequate rehabilitation where such displacement is indispensable has also been stipulated. Member states are required to practise non-discrimination in employment and promote vocational training, handicraft and rural industries for expansion of employment opportunities.

ILO Convention 169 of 1989 - Critical Appraisal

Convention 169 reiterates the international standards as laid down in Convention 107 and reinforces the same. Besides rather than integration in national communities if focuses on distinct roles of the indigenous and tribal peoples in the respective states of which they are citizens. Thus in contradistinction to nation building process in Convention 107, in this Convention the emphasis is on functional norms of states with particular concern for cultural diversity and eco-conservation.

As in Convention 107, the onus for operationalising the provisions of this Convention pertains to the member-states.

In the context of globalisation the following provisions are of particular importance (I) such special measures shall be adopted as are appropriate for safeguarding the persons, institutions, property, labour, cultures and environment of the peoples concerned (Article 4) (ii) In applying the provisions of this Convention, the government shall (a) consult the peoples concerned through appropriate procedures and in particular through the representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly (Article 5) (iii) The peoples concerned shall have the right to decide their own priorities for the process of development as it affect their lives beliefs, institutions and spiritual well being and the lands they occupy or otherwise use, and to exercise

control, to the extent possible, over their own economic, social and cultural development (Article 7) (iv) The rights of ownership and possession of the peoples concerned over lands which they traditionally occupy shall be recognised. In addition measures shall be taken in appropriate cases to safeguard the rights of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect (Article 14) (v) The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management and conservation of these resources (Article 15) (vi) Where relocation of these peoples is considered necessary as an exceptional measure such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained such relocation shall take place only following appropriate procedures established by national laws and regulations including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned. Whenever possible these peoples shall have rights to return to their traditional lands, as soon as the grounds for relocation cease to exist (Article 16) (vii) (1). Procedures established by peoples concerned for the transmission of land rights among members of these peoples shall be respected (2) The peoples concerned shall be consulted whenever consideration is being given to their capacity to alienate their lands or otherwise transmit their rights outside their own community (3) Persons not belonging to these peoples shall be prevented from taking advantage of their customs or lack of understanding of the laws on the part of their members to secure the ownership possession or use of land belonging to them (Article 17) (viii) Governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers (Article 20).

**UNWGIP's Draft Declaration:
Critical Appraisal**

UNWGIP's Draft Declaration on Indigenous Peoples (E/CN/Sub 2/1993/23) is now under

consideration of Open Ended Working Group.

As indicated at the outset of my presentation. MNCs, TNCs and international agencies have emerged as major players in contemporary world techno-economic and political order leaving hardly any space for independent decision-making by many states having sizable indigenous and tribal peoples. The Draft Declaration has nothing to say about the protection of the rights of the indigenous and tribal peoples against the unscrupulous operations of such bodies. The onus is laid on the helpless states who are thus placed in a cleft-stick situation.

In the preamble to the Draft Declaration no mention has been made of the Rio Declaration on Environment, Vienna Declaration on Human Rights, Declaration of the World Summit on Social Development. It has no word to say on need of norm-setting in the function of WTO. It has nothing to say on the African Charter of Human and Peoples' Rights, American Convention on Human Rights, European Convention on Human Rights, attempt currently being made for having Asian Charter on Human Rights. On the other hand it gives scope to hegemonic powers for intervention. The earlier Draft in Article 4 states as follows "Nothing in this Declaration may be interpreted as implying for any state, group, individual any rights to engage in any activity or to perform any Act contrary to the charter of the United Nation or *to the Declaration on principles of international law concerning friendly relations and cooperation among states in accordance with the charter of the United Nation*". In the revised draft in Article 45, the second part of the earlier Article concerning friendly relations and cooperation among states has been dropped. Given the unfolding world scenario of what happened in Panama, Grenada, Haiti, Yugoslavia, Iraq and so on, the indication is rather disturbing.

But there is more. Articles 4, 19 and 20 stipulate that indigenous peoples have rights to participate fully (a) in the political, economic, social and cultural life of the state (b) in the decision making process of the state and (c) in devising legislative or administrative measures of the state if they so choose. One would like to know what would happen if they choose not to participate in all these spheres of life in their respective countries. In many Latin American countries or in Canada or Australia where density of population per sq km is around ten or less the indigenous peoples

can afford to chose a selectively isolationist policy without adverse effect to themselves or their countries, but in country like Bangladesh with density of population of around 1000 per sq km what would be the outcome of the choice of non-participation in decision making?

Taking over-all view it seems that an authentic cause may be hijacked for unauthentic purpose. Certainly the indigenous and tribal peoples are intensively exploited, thoroughly marginalised and subject to process of being divested of their sources of life-support system almost all over the world. They have become vulnerable to intended and unintended process of ethnocide promoted by dominant political and social elite in the name of development and modernisation. In this context many of the Articles of the Draft Declaration carry a positive portend. Certainly indigenous peoples have right to maintain and strengthen distinct political, economic, social and cultural characteristics as well as their legal system, while retaining their rights to participate fully in the political, economic, social and cultural life of the country. But is non-participation in the political life of the state, for instance as envisaged in Article 4, a right or an erosion of right?

But for the foregoing debatable points, all the provisions relating to individual and collective rights and right of self-determination as included in part 1 are in line with the humanistic ethos of the age. Similarly there should not be any difficulty to agree to all the Articles relating to life, sources of livelihood and identity maintenance (part ii), cultural rights (part iii), education rights of children (part vi). But the incongruities inherent in Articles 19 and 20 (part v) about discretionary right not to participate in decision-making process concerning matters of vital interest to the peoples themselves have already been pointed out. While Articles in part VI concerning territorial rights to land and land based resources and to ecological rights are fully acceptable to many social scientists and social activists they deserve a closer look. About four decades ago I took a position that the relationship of tribal peoples with land is more than an economic relationship. They have a sense of jurisdiction over specific areas. Later I described the relationship as proto-political in nature. In 1960, the Judicial Commissioner of Manipur, a state in N.E India, recognised community right over specific territory in a court case (Roy Burman 1961). Though he did not discuss the legal

concept *res nullius*, his judicial pronouncement marked a distinct approach. Justice Hidayatuillah, former Chief Justice of India, questioned the validity of the concept of *res nullius* (1983:11). The Government of India Committee on Land Holding System of the Tribals also challenged the concept of *res nullius* (G.O.I 1988). In 1980s, the issue was thoroughly discussed during the XIIth Congress of the International Union of Anthropological and Ethnological Sciences. Denhez (1983) for instance observed “The colonial powers used various forms of evidence to assert title to alleged *terra nullia* and combinations thereof. Although the colonial powers have largely withdrawn from the scene the independent countries which they left in their wake often resort to the same arguments. It is as if, they view themselves as successors in title to the claims of previous colonial powers”. Some jurists use ‘Act of State’ doctrine to validate such assertions. However in the case in England, *Nisan V Attorney General* the doctrine was refuted (Coe, 1994); on the other hand recognition of indigenous rights sometimes finds a place even in international Conventions. A striking example of the same is the ‘Agreement of the Conservation of Polar Bears’ signed in 1976 and ratified by the Arctic countries: Canada, USA, the then USSR, Norway and Denmark (for Greenland). Article III(I) of the Convention provides as follows: “Any contracting party may allow the taking of Polar Bears when such taking is carried out by people using traditional methods in the exercise of traditional rights and in accordance with laws of that part; or whenever polar bears have or might have been subjected to taking by traditional means by its nationals”. Thus paradoxically compulsions of international relations involving countries like USA and erstwhile USSR have been a contributory factor in phoenix-like re-emergence of customary rights of indigenous peoples (Roy Burman, 1985: 10-11). In recent years the most significant challenges to the concept of *terra nullius* has come through the judicial pronouncement in the case *Mabo Village Queensland (No.2) 1992*. The High Court of Australia handed down *Mabo* decision that land was traditionally owned and occupied prior to European occupation of the contested area and that Aboriginal Land title is legally enforceable in areas where new property rights have not been established (Coe op cit).

The foregoing development in many

countries all over the world during the last four decades seems to move towards the establishment of new norms in international law in respect of property relations.

The Articles in the Draft Declaration are however too conservative and status-quo oriented in respect to tradition. Tradition is not an iron cage in which people live. For instance in many cases traditional rights of chiefs are a creation of colonialism. If even after the departure of the colonial masters the people continue to accept the rights of the chief it is because the alternative would be surrender of all their rights to the ruling class of the State. While the Declaration should protect against such a contingency it should also provide a mechanism for self-assessment of the different parameters of traditional rights, by the concerned communities, in terms of internal consistency and rootedness in the egalitarian and reciprocity ethos, which characterise almost all indigenous and tribal peoples. In the absence of such a provision the articles in part VI will create social freeze, which will burst in the long run.

There is another dimension to be taken care of. The over-privileged industrialised countries have forced most of the disadvantaged so-called third world countries agree to a multi-lateral WTO agreement, which requires them to open up their economies to foreign investment. Once foreign investors have invested in a country, they are entitled to the same rights as the local investors. Opposing this, 56 NGOs have inter alia stated. "This would most likely result in a great expansion in the number and intensity of negative effects the losses and closure of many local firms and farms, greater profit outflow leading to balance of payment difficulties; the inability of the domestic sector to build its capacity; buying of land and property by foreigners. Adverse environmental and cultural effects would also be experienced, as more foreign firms introduce new industries, industrial products and cultural services in an unchecked manner and at an accelerated pace" (Resurgence, 1995).

While under pressure of the North the States of the under-privileged countries are being rendered impotent to protect the resource rights of any section of their population including the tribal and indigenous peoples, Article 28 of the Declaration places the onus on the states to protect the resource and environmental rights of these peoples. Obviously the under-privileged

states will fail to discharge their responsibility and this in its turn will be used by hegemonic powers as an alibi to intervene on humanitarian ground. The Declaration should contain an Article to negate such possibility.

In a general way the Articles in part VII relating to customary rights about self-governance structures are in harmony with the trends in most of the newly independent countries. However reference to internationally recognised human rights standards in Article 33 requires to be qualified. Currently the so-called international human rights standards are primarily rooted in European history. For some time to come the rights will have to be related to specific history, social-ecology and political economy of different categories of countries. As already mentioned, there are separate Conventions of European Human Rights, American Human Rights; there is also a separate charter on African Human Rights. An Asian Human Rights charter is also under negotiation. These by themselves indicate that the Universal Declaration of Human Rights does not encompass the human rights issues of all parts of the globe (Roy Burman, 1999).

Article 36 requires that treaties, agreements and other constructive arrangements concluded between indigenous peoples and States or their successors should be respected. Further it provides that conflicts and disputes which cannot otherwise be settled should be submitted to competent international bodies agreed to by all parties concerned. At this moment credibility of many international bodies is not very high. Conflict and disputes should be resolved through transparent political process within the countries or through the intervention of the judiciary. At the same time collective review of conflicts and disputes of the same order by the concerned states and spokesmen of the peoples can be provided for. Moral dimension, rather than power dimension of international relation may be invoked.

Article 38 of part VIII relating to financial and technical assistance and international cooperation has been drafted in an ambiguous manner. One of its possible interpretations is that it vests with the indigenous peoples the right to political, economic, social, cultural and spiritual development through international aid. Though it has been couched in the language of rights, it may actually lead to the slippery slope of bondage. There are a number of experiences of international

aid to the indigenous peoples in Latin America and South-East Asia leading to catastrophic results for the concerned peoples. One has to be extremely cautious about this particular Article.

Part ix reaffirming the sanctity of UN Charter etc is on the face of it unexceptionable at this stage. But the charter itself requires drastic revision so that the unity of struggle of the under-privileged States and the under-privileged sections within States can be reflected more clearly. This however is a mid-range statement of perspective. In the long-range the UN must be transformed into a Union of peoples and in this, as will be discussed later, the indigenous and tribal peoples may have to play the most crucial role.

Comparison of ILO Conventions and UN UNWGIP Draft Declaration

It has already been mentioned that ILO Convention 107 is more concerned with nation-building process in terms of the values of conventional liberalism. It actually means reinforcement of the grip of the core population of a nation though with a human face. Convention 169 is more concerned to set up norms for functioning of States with some accommodation of compenionate value orientation for smoothening the power-centric orientation of State institutions. Notwithstanding its eurocentric bias as already analysed it is a vast improvement over Convention 107. UNWGIP's Draft Declaration notwithstanding its humanitarian projection couched in a terse language, seems to be more concerned with forcing some sort of supra-State agenda on the State institutions. Within the UN framework it has little chance of being adopted in the present form. But it will generate considerable political mobilisation process globally and if the same can be harnessed with insight and understanding of the dialectics of social movements it can lead to global transformation with humanist ethos at the core; otherwise it can pave the way of consolidating the control of global hegemonic forces on the debris of State institutions.

TRIBE IN INDIAN HISTORY

Apart from repeated narration of the cosmic origin of all the peoples the ancient scriptures going back to the first millennium B.C (The Vedas, Brahmans and Purans) also mention names of tribes or nations of different periods. It is the

consensus among scholars that in Sanskrit the term Kirata indicated the wild non-Aryan tribes living in the mountains particularly the Himalaya and North Eastern areas of India who were Mongoloid in origin. Some scholars are of the view that the name also applied to any hill people. The Rig-Veda shows a very keen perception of racial discrimination. At least three distinct constellations of peoples were distinguished in the earlier times viz Aryan, Dasa and Asura. Colour seems to have formed an important factor in the early form of gradation; but as large-scale miscegenation took place, other factors also gained in prominence. The words Jana and Vis occurring frequently in Vedic literature are variously dubbed to signify a 'tribe' 'people' "settlers" by modern scholars. By reinterpreting the mythopoetic hymns in the Rig-Veda Shendge (1977: 7-8) traces the conflict of the Aryan invaders and the pre-Aryan peoples of the subcontinent. Shendge identifies the main adversaries, the Asuras, as the bearers of Harappa culture; but on this point there is no general agreement. In ancient Indian cultural landscape the appellations Rakshasa, Pisaca stand almost as sub-human beings. Again there are terms like Gandarva and Kinnoura to designate almost semi-divine entities. These are not historical evidences: but these indicate differentiated attitude and social relations of Aryan invaders with non Aryan peoples inhabiting the land. In his rock edict at Dhaula in the eastern coastal province of Orissa, one of the greatest kings of India, Asoka ordered the administrators in the 3rd century BC to administer the forest peoples with sympathy and compassion.

History has left evidence of kings princes merchants. Hindu missionaries etc making occasional penetration in the deep forests of Central and South India in the middle ages. Roy Burman interpreted the persistence of tribe as distinct social entities not only with reference to the viability of their relations with the endowments of nature to the egalitarian and convivial ethos in social relations, but also their shifting roles as bridge and buffer among politically organised kingdoms with territorial base (1994 a: 22-95). During the Mughal role the tribal peoples were not disturbed and were left to their own habitat. In the 16th century the Mughal emperor Akbar in one of this royal edicts instructed the commanders and governors not to disturb the tribal peoples. After the advent of the

British there was a radical change in the administrative policy.

Sophisticated arms and developed communication made it possible for the British to penetrate the dense forests for extraction of timber and mineral resources. The hills of North East India were left out till the later part of 19th century due to complex strategic considerations. The encroachments on tribal lands were not however a smooth affair. Raghaviah (1971) has recorded around hundred cases of armed resistance by the tribal peoples to the colonial intrusion throughout the 19th century all over India. But in these resistance struggles, the plainsmen hardly made common cause with forest dwellers. In 1874 the British enacted the Schedule Districts Act which vested the Executive with powers of legislation by simple executive order. Around the same time the Criminal Tribes Act was promulgated to keep under constant surveillance the recalcitrant elements. What was most galling to the tribal peoples was the introduction of the doctrine of *res nullius* (rights in respect of land and land-based resources which were not conferred by the sovereign were claimed to vest with sovereign). Historians have pointed out that traditional legal epistemology in India was *lex loci sitae* (system by which the local people define their relation with land is the source of law). There were however hunting reserves or other specified areas which were owned by kings as exclusive economic right. Some kings tried to convert political jurisdictional rights to economic ownership rights beyond these specified areas. But they or their dynasties had to pay the price; sooner or later they were overthrown. The colonial masters were militarily too strong to be overthrown. In the second decade of the 20th century when tribal peoples were on the one hand virtually tamed and on the other nationalist movement for freeing India from foreign rule was gaining momentum, the Government of India Act 1919 accorded recognition to the tribes with special agenda for their administration. The Government of India Act 1935 provided for the declaration by the Governor General-in-council of Excluded Areas and Partially Excluded Areas. No Act of the federal or provincial legislatures would apply to the Excluded Areas except on the direction of the Governor; it also enabled the Governor to make regulations for the peace and good governance of the areas. Tribals inhabiting the partially excluded areas could however be represented in the legislatures; the ministers

could also exercise their administrative authority in these areas subject to the discretionary power of the Governor. In independent India, the scheme of administration of tribal predominant areas was substantially modified. But the colonial legal epistemology of *res nullius* and *terra nullius* not only continued to exist but were implemented more vigorously. While the basic concepts informing land legislations were formed during the British period, due to lack of communication infrastructure and administrative infra-structure in most tribal predominant areas these could not be operationalised. The bulk of the tribal peoples therefore remained virtually untouched. But in the post-independence period when these laws, which were there on paper were implemented, many tribal peoples felt betrayed and a sense of alienation spread in the minds of many of them. Post-independence India has certainly implemented many welfare measures for the tribal peoples; but when their command over their life-support system is eroded welfarism is hardly an adequate answer.

Tribal Peoples in the Constitution of India

The Constitution of India enshrines the political intent to constitute the country into a sovereign socialist, secular democratic republic and to secure to all its citizens justice, liberty, equality and fraternity. As a purported follow-up of the foregoing over-arching objectives the Constitution provides for protection and promotion of the interests of the Schedule Tribes (STs). These include affirmative action for promotion of social and economic interests of the communities notified as STs under the Constitution; reservation in legislatures, enabling clause for reservation in educational institutions and services, protection and promotion of languages and culture and so on. There are also two important instruments for administration of the areas of tribal concentration. Before discussing them some the implications of the basic structure of the Constitution would be briefly mentioned. While in the long run social justice, liberty, equality and fraternity may be inter-related, in the short run they may not be so. Besides the rights of individuals within communities and the collective rights of communities in the over-all social-political milieu may not always coincide. Such issues were not seriously considered at the conceptual level (Mahajan, 1998: 4). While liberalism encompasses both the approaches,

each affects differently collectives and individuals depending on the social structure and cultural-ecology of the collectivities and personal and family histories of individuals. In India tribes do not constitute a homogenous entity; hence apparently a uniform approach is not possible. But in spite of diversities of life-conditions, there is also an emerging sense of oneness rooted in the feeling of being dispossessed from traditional command over respective life support systems and consequently collective marginalisation (Roy Burman, 1996: 2). At this point of time collectivity-orientated approach therefore seems to be logically more correct.

Fifth and Sixth Schedule of the Constitution

The Fifth Schedule of the Constitution is basically protective and paternalistic in its thrust. It provides for surveillance by the Union Govt. about the administration of the areas covered by this schedule. Besides it vests with the Governor the power to set aside or modify legislations enacted by the Parliament of the State legislature. The Governor is further vested with power of promulgating regulation for the peace and good governance of the scheduled areas. There is also provision for Tribes Advisory Council mainly consisting of the elected tribal representatives in the State legislatures.

The Sixth Schedule operates only in some of the tribal predominant areas of N.E India. It is supposed to be informed by the ethos of self-management. Each tribal area covered by the Sixth Schedule has an Autonomous Council consisting of not more than thirty members including not more than four nominated members. The Council has legislative, executive and judicial powers but in actual function it is hedged by many restrictive conditions. As a result, such Councils have tended to become political toys of the State and national level political elites.

In 1992 the Constitution was amended to strengthen the organs of local government all over the country. As a sequel to this a legislation was enacted in 1996 avowedly to augment the power of the institutions of tribal self-rule in the Scheduled Areas. But it is debatable whether the provisions would actually serve the professed purpose. Public discourses have started on the amendment of the Sixth Schedule also. There is a school of thought that the amendment should pave the way for self-determination of the tribal collectivities; there is another school of thought that the amendment should enhance the

participatory role of the citizens inhabiting the tribal areas.

The citizenship issue should however be considered in the context of the fact that there are four tribal predominant States and two tribal predominant Union Territories in India. At the same time it is to be noted that in one state while the tribals were predominant at the time of India's independence, they have now been rendered into a minority with around 30 per cent of the total population. This is a traumatic experience not only for tribals but also for some categories of linguistic minorities. As all persons born and brought up anywhere in India enjoy citizenship right in the context of state apparatuses, the citizenship issue need not necessarily be linked up with institutions specially meant for the tribal peoples.

Current Situation of the Schedule Tribes in India

Schedule tribes are recognised collectivities listed as such according to procedures laid down in the Constitution. There are many communities whose self-image is that of being tribals and/or who are recognised as tribals by their neighbours but who have not been listed as STs. On the other hand there are communities who are not considered as tribals by their neighbours but who are in the list. For instance the Swanglas who are Brahmans in Himachal Pradesh are treated as a scheduled tribe in the statute. In such context when the World Bank categorises all STs in India as indigenous it is nothing but uninformed interference.

In 1991 census 67.8 million persons were enumerated as ST; around 600 community names have been listed, but many of them are sub-tribes or synonyms. Numerical strength of individual tribes in 1991 census is not yet available. In 1971, the largest tribe, the Bhil had a population of more than five million, the smallest one, the Onge had a population of 112 (tribes with less than population of 100 have not been considered here). The STs constituted 8.5 per cent of the population of the country in 1991. The traditional tribal habitats are generally forest clad uplands. It is of particular significance for the tribals that satellite data show that India is losing 1.3 million hectares of forest a year. Though the tribal peoples are blamed for this, even a Govt. Committee report holds the unscientific and incongruous forestry practices at least partially responsible. Apart from displacement because of environmental

degradation, the tribal peoples are also affected by reservation of forests, displacement caused by industrial and hydel projects and urbanisation without viable overall land use planning. While it is estimated that more than 10 million tribal population have been displaced, a national rehabilitation policy is yet to be formulated. As a result, the rehabilitation measures are of very uneven quality in different parts of the country. Besides the social ecology of the tribals is affected by large-scale immigration of non-tribal population as a sequel to opening up of tribal areas for commercial exploitation of resources and ancillary activities. Change in physical and social ecology has also affected the nutritional status of the tribals. A study conducted in 1986 showed that while 40 per cent of tribal peoples are well-fed, 60 per cent suffer from gross nutritional deficiency. In the early 1990s around 53 per cent of tribal population were below the poverty line compared to the national average of around 32 per cent. In 1991, 7.38 per cent of STs were living in urban areas compared to national average of 25.73 per cent; 42.0 per cent of the STs were participants in the working force as against national average of 37.6 per cent. Higher participation in working force frequently means lower capacity to support dependants to go in for acquiring higher skill so that they can qualify for more paying or more prestigious occupations. In 1991 census among the STs workers 54.50 per cent were cultivators, 32.69 per cent were agricultural labour; the rest were other workers. When data with earlier censuses since 1961 in respect of the STs and also of the general population are compared it is found that diversification of occupation has taken place to a much greater extent among the general population and also that during the 1980s diversification among the STs has suffered a set-back. In 1961, the number of literates as per cent of total population of India (inclusive of the age-group 0-4) was 24.0 compared to 8.5 in case of STs. The corresponding figures in subsequent censuses were 29.5 and 11.5 (1971) 36.2 and 16.4 (1981) 42.8 and 22.0 (1991) it is interesting that literacy is progressing at a much faster rate among the STs than among the general population.

The tribal languages of India belong to all major language families. The languages of the Austrie, Dravidian and Tibeto-Chinese families are however more frequently spoken. In 1961 census around 50 per cent of the tribal population were enumerated as speaking their ancestral languages

as mother tongue. Another about 15 per cent spoke tribal languages as second language. In 1991 census almost entire population of some of the major tribes retained their respective ancestral languages as mother tongue. This is particularly true of the Santal and Ho of East India and of most of the tribes of N.E. India. The Kurukh, Munda and Kharia languages are having somewhat less vigorous existence. The survival rate of the ancestral languages of the tribes of West India and South India is rather low.

With vigorous persistence of tribal languages two other phenomena are associated. First is the urge to have distinct script other than the script of the region. The Santal have three such scripts. More interesting is the efflorescence of creative literature in recent decades in different tribal languages, particularly of East and N.E. India. In 1950s there were hardly a dozen published books in Bodo language: now they claim to have around 4000 books. The Museum of Mankind Bhopal, has a collection of around 4000 books in 50 tribal languages. My estimate is that there around 20000 published books in different tribal languages.

A remarkable illustration of identity assertion is found in the claims of religious affiliation. Particular mention is to be made of the Santal of Orissa. While percentage of Christian Santal showed a marginal rise in successive censuses - 0.01% in 1961, 0.07% in 1971 and 0.35% in 1981, the percentage of the claimants of religions other than Hinduism and Christianity went up to a heady height from the base of 0.34% in 1961 to 13.14% in 1971 and 46.23% in 1981. In some States followers of Hinduism and Christianity showed decline in one or the other census. It is however difficult to say that a stable trend has come up at the all India level.

Identity assertion is most marked in growing political militancy. Earlier it was practically confined to North-East India. Now large tracts in the central tribal belt is also experiencing political turmoil. While militancy in North-East India is primarily nationalistic in character claiming right to have independent states of their own in some cases, the militancy in the central tribal belt is more ideologically influenced, the main trust being right of access to and control and management of life support resource base in land and forest which is being affected by aberrant legal espiteology and elitist approach to eco-management. Rather than handling these issues with insight and understanding, the State apparatus in India is trying to meet the challenge

by unleashing a reign of terror on the one hand and inane welfarism on the other. The tragedy is that while the situation seems to be grim, there is every reason to believe that with a more authentic democratic approach, informed by the global situation and also historical process within India and in the neighbouring countries, mutual accommodation appears to be quite possible. But right initiative is still to emerge.

Rapid Over-view of the Tribal Situation in the Neighbouring Countries

As resolution of the political upsurges among the tribal peoples particularly of North-East India depends to a certain extent on understanding the historical relations with the countries in SE Asia, a rapid overview of the same is necessary. Many of the tribes in N.E. India, the Singphos, sections of the Nagas, the Mizos for instance, have counterparts in Myanmar. The Singphos, the Lishus or Yeobins of Arunachal have counterparts in Tibet Autonomous region of China. In the precolonial period the kingdoms in S.E Asia were not demarcated from one another by rigidly fixed boundaries but by loosely perceived frontier regions. During the colonial era, particularly in the context of Anglo-French rivalry as a major factor, boundaries were rigidly fixed ignoring the social, cultural, political and historical ties among the inhabitants. During the Second World War when Japan occupied the bulk of S.E Asia, some attempt was made to rationalise the boundaries: but after the war the arrangement was reversed (Lamb 1968). Currently there are two possibilities. One is reorganisation of the State boundaries in North-East India and S.E Asia. But this will open up Pandora's box. There will be chain reaction in all the countries either dismantling the State or making them functionally impotent, thus paving the way for neo-colonial forces to take over. This will be detrimental to the interest of the tribal and indigenous peoples as well. There is a second possibility. In the context of the facts that (a) state as an institution is retreating from many functions (b) as noted by Stegeborn State is non-indigenous ideology and (c) as advocated by many, including Samir Amin that while in the long run national State must be replaced by a global system of management of human affairs, in the interregnum period State in disadvantaged countries must function as barricades against global hegemonies, one can think of institutional arrangement cutting across State boundaries without changing State

boundaries (Roy Burman, 2000). What is needed is responsive flexible approach. To some extent one finds an illustration of the same in USA, in its domestic context. There is no reason why similar approach cannot be extended in the international context though USA herself seems to have reservation in this regard (Garcia-Alix, 1999).

Twists and Turn in Policy in Respect of the Amerindian in USA

This rapid overview is based on Canby (op cit). As noted earlier during the colonization of America, the British crown dealt with the Indian tribes formally as foreign nations, and entered into treaties with many of them. Later as it was found that individual colonists were encroaching upon Indian lands in order to avoid prolonged and expensive Indian wars the Crown increasingly assumed the position of protector of tribes from the excesses of colonists. After USA gained independence the Congress was empowered to make treaties, including Indian treaties with the consent of the Senate.

The friction between the Amerindians and the ever-growing immigrant population however remained unabated, as the immigrant demands for additional land became more acute. The solution of removing the Amerindian beyond the Mississippi river was espoused and implemented by powerful political lobbies.

In 1775 the Supreme Court of USA made a judicial pronouncement, which recognised a legal right of Amerindians in their lands good against all third parties, but existing at the mere sufferance of the Federal Government. In 1832 Chief Justice Marshall made a judicial pronouncement that "Though the Indians are acknowledged to have an unquestionable right of lands they occupy until that right should be extinguished by a voluntary secession to our government, yet it will be doubted whether those tribes which reside within the acknowledged boundaries of the United States can with strict accuracy be denominated foreign nations. They may be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will which must take effect in point of possession when their right of possession ceases. This means, while they are in a State of pupilage: their relation with United State resembles that of a ward to his guardian".

As non-Indians continued to move westward further pressures were exerted upon Indian land base and the Federal Government evolved a policy

of restriction of the tribes to specified reservations. This goal was accomplished by treaties exacted with a mix of persuasion and coercion. In 1871 the Congress passed a statute providing that no tribe should thereafter be recognised as an independent nation with which the USA could make treaties. Existing treaties however were not affected. Reservations established after 1871 were created either by statute or until ended in practice in 1919 by executive order.

In 1870s and 1880s there were increasing dissatisfaction in government circles with the reservation policy on two grounds (a) it inhibited initiative of individual Indians and (b) large tracts of land remained excluded from White settlement. As a combination of these two sentiments, The General Allotment Act of 1887, also known as Dawes Act was enacted. The Act authorised the President to allot portions of reservation land to individual Indians. Further the Act authorized the Secretary of Interior to negotiate with tribes for disposition of all excess lands remaining after allotments for the purpose or for non-Indian settlement.

Despite the benevolent posture of its sponsors the Act was imposed without any requirement of consent of the Indian tribes. The primary effect of the Allotment Act was a precipitous decline in the total amount of Indian held land from 138 million acres to 48 million acres in 1934. Of these 48 million some 20 million were desert or semi-desert.

In 1928 the now famous Meriam Report documented the failure of Federal Indian Policy during the allotment period. It led to the passage of Indian Reorganization Act of 1934.

Contrary to that of the allotment Act the Reorganization Act was based on the assumption that the tribes not only would be in existence for an indefinite period but that they should be. The Act consequently sought to protect the land base of the tribes and to permit the tribes to set up legal structures designed to aid in self-governance.

The Act authorised the Secretary of Interior to restore tribal ownership any surplus land acquired from the tribes under the Allotment Act so long as third parties had not acquired rights in that land. Also the Act authorised the Secretary to acquire lands and rights for the tribes and to create new reservations. The Act authorised the tribes to organise and adopt Constitution and by-laws subject to ratification by tribal members

and approval of the Secretary of Interior.

While the Act was overwhelmingly successful in preventing further rapid erosion of tribal land-base its encouragement of self-governance framed after western model enjoyed a more limited success.

By 1940s, many of the areas under tribal reserve were found to be rich in oil and mineral resources and the mood among the political elite changed. In 1953 the Congress formally adopted a policy of 'termination'. Several tribes were terminated by statute: their special relationship with the Federal Government was ended and they were subjected to State laws: their lands were converted into private ownership and in most instances sold.

At the time when the Congress was pursuing the goal of termination, the Bureau of Indian Affairs (BIA) was attempting to encourage the Indians to leave the reservations under its 'relocation program'. As a response to high unemployment rates in the reservations, BIA offered grants to Indians who would leave the reservation to seek work in metropolitan centres. All too often the effect of the program was created in the cities a population of unemployed Indians who suffered all the usual problems of urban poor along with the added trauma of dislocation.

In 1953, public law 280 was enacted which extended State civil and criminal jurisdiction to Indian habitats in five specified States. In 1958 it was extended to Alaska also. It ran directly counter to Marshall's original characterisation (1832) of the Indian country as the territory in which the "laws of the State can have no force".

By the late 1960s the policy of termination was largely regarded as a failure. Partly for this and partly for other reasons the Congress passed the Indian Civil Rights Act in 1968, which amended Public law 280 so that states could no longer assume civil and criminal jurisdiction over Indian country unless the affected tribes gave their consent through special elections held for the purpose.

In 1970 President Nixon declared termination a failure and called upon the Congress to repudiate it as a policy. In 1975 Congress passed the Indian Self-Determination and Education Assistance Act, which authorised the Secretary of Interior and Health, Education and Welfare to enter into contracts under which the tribes themselves would assume responsibility for administration of federal India programs. Also the Congress established the American India Policy

Review Commission in 1975, which included Indian representation. In its report submitted in 1977 the Commission called for a firm rejection of assimilationist policies, reaffirmation of the status of tribes as permanent, self-governing institutions and increased financial aid to the tribes. Subsequent congressional and executive policies have continued to favour tribal self-development. The Indian Tribes Government Tax Status Act of 1982 accorded tribes many of the Federal tax advantages enjoyed by States, including that of issuing tax exempt bonds to finance government projects. In 1983, President Reagan reaffirmed the policy of strengthening tribal governments with the additional goal of reducing their dependence upon Federal Government.

At present the Federal Indian policy seems to be based on a model of continuing pluralism: it recognizes that the tribes are here to stay for the indefinite future and seeks to strengthen them.

As this policy relates to the concept of self-determination the same would be briefly examined here.

Indigenous and Tribal Peoples and Self-determination

The right to self-determination was enshrined as a fundamental political principle in the UN Charter and was subsequently made a binding legal right by the two Human Rights Covenants of 1966 (Economic, Social and Cultural Rights and Civil and Political Rights). The very first Article of both the Covenants postulates in identical words: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". Falk (1988, P26) avers that this has to be interpreted with reference to UN Resolution 1514 adopted in 1960. According to para 6 "any attempt at partial or total disruption of national unity and the territorial integrity of the country is incompatible with the purposes and principles of the Charter of United Nations". In 1970, the Secretary General of the UN made a statement to the effect that "As an international organisation, the UN has never accepted and does not accept and one does not believe it will accept the principle of secession of a part of a member state" (U. Thant, 1970). In 1974, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities initiated a study by Hector Gros Espiel, whose report affirms that right of self-

determination in the sense of right of secession is confined to "peoples under colonial and alien domination from an external source. A concern for the preservation of 'territorial integrity' is the prevailing consideration. In the classical colonial context the colonized peoples' right to self-determination permits (if not mandates) the option of secession of sovereign independence" (Gos Espiel, 1988 P199). In 1993 a statement was issued by 20 social scientists in Shimla to the effect that irrespective of the limitation in the UN system if a state persistently misbehaves the right to secession cannot be denied to the affected people.

It may be mentioned here that in 1966 when the two Rights Covenants were adopted though many countries were opposed to the inclusion of right of self-determination in the Covenants. India's representative extended support to it and stated that if the right of peoples to decide for themselves in political, social and cultural matters, such a right was recognised in every truly democratic state and that only in totalitarian states and in countries subjected to colonial regime it did not exist (Laiser, 1991).

The current allergy to the 'self-determination' in some quarters in India is to be understood in the context of trends towards a hegemonic world order. But as in case of operationalising the concept 'people' in this case also the society and the state of India can go in for radical engagement without however accepting the term 'indigenous' in isolation. It seems that of late there is a move in India in this direction. In 1993, the fact that in 1966 India had supported the use of the term 'right to self-determination' in UN Documents was brought to the notice of the concerned authorities. It was also pointed out that the right of self-determination did not necessarily mean right of secession. In October 1995, the External Affairs Minister, Government of India took the same position in a press conference (HT, 1995). It is hoped that radical engagement as suggested here can take place in a more congenial political climate (Roy Burman, 1998a).

Futuristic Perspective - the Role of Indigenous and Tribal Peoples

There are estimated 5000 indigenous and tribal peoples in the world, with population of around 300 million (ILO, 1994:3) and with the ethos of self-regulation linked to companionate value orientation as attribute of their authentic identity, though blurred frequently at the empirical level

due to inter-play of various power centric forces. The networking among this category of peoples that is going on during the last two decades will certainly have significant bearing on the geopolitics of the 21st century.

Geopolitics of the 21st Century and the Indigenous and Tribal Peoples

For several years I have been highlighting the fact that the habitats of the tribal and indigenous peoples constitute an almost contiguous belt from Arabian Sea to Pacific Ocean and skirting the Himalaya upto the mountains of western Asia and then with a few breaks upto the homeland to the Basques of the Pyreneese Mountain in Spain. Crossing the Atlantic as well as the western coasts of the same continent facing the Pacific Ocean are the rocky and mountainous tracts which until recently were traditional territories of the indigenous peoples. And then there are islands in the Pacific many of which look tiny in terms of land linked perception of geography, but would emerge as medium and major states in the 21 century with full implementation of the UN Law of the Sea and EEZ on the one hand and progress in marine technology on the other (Roy Burman, 1999a).

As it appears from the deliberations in the Open Ended Working Group of UN on indigenous peoples (Gray, 1999) and from the establishment of a permanent Forum of ECOSOC on Indigenous Peoples (Gracia-Alix, 1999) a formidable challenge is building up against hegemonic State system. Though many of the indigenous and tribal peoples are demanding states of their own, in the long run the normative dimension of their identity is likely to operate in a dialectical manner to transform the hegemonic power-centric globalisation process to a trajectory towards humanist compaignonate value oriented world system, in which non-state self-regulation structures would emerge and the Unites Nations would be transformed into Union of peoples.

KEY WORDS Indigenous; tribal world system; social category; identity

ABSTRACT Experiences during the post-second world war period show that capitalism per se is unable to overcome the growing contradiction between its economic management in an increasingly globalized space and its political and social management which remain fragmental among national space. This impasse can be dialectically used to move beyond power-oriented system in the management of world affairs and initiate the process of its replacement by compaignonate value based

egalitarian justice system. In this task of world reconstruction history's mantle has devolved on the indiginous people defined in normative sense, rather than chronological and relational sense. While in ideal typical cognitive realm, tribe as a social category can also be considered to be indiginous in the normative sense, two contradictory processess are taking place in the contemporary world situation. On the one hand the 'indiginous' world-view of ethical engagement with fellow human beings and also with the animate and inanimate endowments of nature is encompassing many collectivities who do not identify themselves or are identified by others as tribal peoples, on the other while a number of policy, documents at the national and international levels are reinforcing the traditional identity markers of the recognised tribal entities, some of these documents are diluting their indiginosity in the normative sense. The paper discusses several aspects of the contradictory processes.

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