



Tribals and Human Rights: A Study of the Gond Tribe of Sonbhadra, Uttar Pradesh

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Over the millennia, Indigenous peoples have developed a close and unique connection with the lands and environments in which they live. They have established distinct systems of knowledge, innovation and practices relating to the uses and management of biological diversity on these lands and environments. Much of this knowledge forms an important contribution to research and development, particularly in areas such as pharmaceuticals, and agriculture and cosmetic products. In the context of these uses, Indigenous peoples claim that their rights as traditional holders and custodians of this knowledge are not adequately recognised or protected. They demand not only recognition and protection of this knowledge, but also the right to share equitably in benefits derived from the uses of this knowledge. (Davis,1998)

It comes as no surprise that all societies argue for policies and practices that help sustain their cultures and systems of knowledge. This is because culture is fundamental to identity - it is our past, our present and our future. We need our culture to sustain us and to keep us well. But importantly, we need culture because it provides the fundamental essence of who we are, how we practice our Lore, how we interact with each other, and how we meet our familial and collective obligations and responsibilities. Indigenous peoples have been struggling for many years to sustain our culture, despite a history of policies designed to eradicate or assimilate our languages, our belief systems and our ways of living.

In an interesting reversal of thinking, we are living in times where some core values of Western society are being questioned. Some of the world's best thinkers now argue that aspects of Western culture seriously threaten global ecologies. And we are witnessing global efforts to rethink some of these Western value systems - these very same values that have been imposed on our people to the detriment of our cultures and our systems of knowledge. This is most striking where governments are working to develop responses to climate change. Some of the responses to this will be dependent on Indigenous traditional knowledge.

Indigenous peoples have the ability to interpret and react to the impacts of climate change in creative ways, drawing on our traditional knowledge's and other technologies to develop solutions which may also help the wider society in its attempts to cope with the changing climate. This reinforces the argument that Indigenous peoples are vital to, and active in, the enhancement of the ecosystems that inhabit our lands and are integral to the survival of India's uniqueness. However, the current system does not adequately recognise or protect the role Indigenous peoples play or the knowledge we collectively possess.

The International Council for Science (ICSU) define traditional knowledge as: A cumulative body of knowledge, know-how, practices and representations maintained and developed by peoples with extended histories of interaction with the natural environment.

These sophisticated sets of understandings, interpretations and means are part and parcel of a cultural complex that encompasses language, naming and classification systems, resource use practices, ritual, spirituality and worldview. (Report of ICSU 2002)

Indigenous traditional knowledge generally means traditional practices and culture and the knowledge of plants and animals and of their methods of propagation. It includes:

- expressions of cultural values
- beliefs
- rituals and community laws
- knowledge regarding land and ecosystem management

The rights to Indigenous traditional knowledge are generally owned collectively by the Indigenous community (or language group, or tribal group), as distinct from the individual. It may be a section of the community or, in certain circumstances, a particular person sanctioned by the community that is able to speak for or make decisions in relation to a particular instance of traditional knowledge.

It is more often unwritten and handed down orally from generation to generation, and it is transmitted and preserved in that way. Some of the knowledge is of a highly sacred and secret nature and therefore extremely sensitive and culturally significant and not readily publicly available, even to members of the particular group. The maintenance and protection of Indigenous traditional knowledge is crucial to the maintenance of Indigenous culture. It is also valuable to development policy and operations and the advancement of understandings of sustainability on a global scale.

Summary of major international instruments that recognise Indigenous peoples' right to protect their traditional knowledge

INTERNATIONAL INSTRUMENT	PROVISIONS
The Universal Declaration of Human Rights	Article 27
The International Covenant on Economic, Social and Cultural Rights	Article 15, paragraph 1 (c)
The International Covenant on Civil and Political Rights	Article 27
The Convention on Biological Diversity	Article 8 (j)
The International Labour Organisation Convention No.169 concerning Indigenous and Tribal Peoples in Independent Countries	Articles 13, 15, 23
Agenda 21	Paragraph 26.1
The Rio Declaration on Environment and Development	Principle 22
The Declaration on the Rights of Indigenous Peoples	Articles 11 and 31

The World Intellectual Property Organisation (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, argue that the recognition and protection of indigenous traditional knowledge has largely taken place within the parameters of intellectual property law. However, they also recognise that this has been limited due to the western constructs of intellectual property laws failure to be able to accommodate the vastly different requirements for the protection of indigenous traditional knowledge, such as the communal transgenerational concepts of ownership, versus a focus on creativity and individualism. (Report on ITK, 2010)

The Declaration on the Rights of Indigenous Peoples draws on other major instruments to provide the most explicit recognition internationally of Indigenous people's rights to their traditional knowledge:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect, and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

The Convention on Biological Diversity provides specific opportunities for introducing measures to recognise and protect Indigenous knowledge. Article 8(j) of the Convention encourages countries to: ...respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

The Area: Uttar Pradesh

Uttar Pradesh (UP) (20 Crore) is the most populous State in the country - population is more than the population of Brazil. Population of Uttar Pradesh as per Census 2011 is 199581477 (Approx 20 Crore) which is much higher than Census 2001 data which show 16.6 Crore population of the state. Uttar Pradesh is also having 29.7 children in the 0-6 years age group. Meanwhile India's new national census has put the population at about 1.21 billion people, or 17% of the world population, the census commissioner said. The population comprising 623.7 million males and 586.5 million females is almost equal to the combined population of the United States, Indonesia, Brazil, Pakistan, Bangladesh and Japan put together. The population has increased by more than 181 million during the decade 2001-2011, the report said. The growth rate in 2011 is 17.64 per cent in comparison to 21.15 per cent in 2001.

The Scheduled Tribe (ST) population of Uttar Pradesh is 107,963 as per 2001 census, constituting 0.06% of the total population (166,197,921) of the State. The decennial growth of ST population has been 42 per cent, which is 16.% which is higher than the growth of total population (25.8 per cent) during 1991-2001. The State had a total of five (5) Scheduled Tribes and all of them have been enumerated at 2001 census. The tribal population of the State is predominantly rural with 88.8 per cent of them residing in villages. District wise distribution of ST population shows that Kheri district has the highest proportion of STs (1.2 per cent), followed by Balrampur (1.1 per- cent), Shrawasti & Bahraich (each 0.4 per-cent) districts. Nine (9) districts, each having a proportion of 0.1 per cent tribal population whereas remaining fifty seven (57) districts have negligible proportion of ST population. Out of five STs, Tharu is the most populous tribe, having a population of 83,544; they constitute 77.4 per cent of the total tribal population of the State. Buksa is the second major tribe, having a number of 4,367, followed by Bhotia, Jaunsari and Raji. These four tribes along with generic tribes constitute the balance 22.6 per cent of total ST population. At the level of individual tribe, Tharu are primarily concentrated in Kheri, Balrampur and Bahraich districts. Buksa have the highest concentration in Bijnor, followed by Farrukhabad districts. Other three STs, Bhotia, Jaunsari and Raji have returned maximum population in Agra, Kheri and Gorakhpur districts respectively. Among the five STs, Buksa and Raji tribes have been recognized as Primitive Tribes. Together, they constitute 5 per -cent of the total tribal population of the

State. However, the Government of India has included the following Castes in the list of Scheduled Tribes by Scheduled Caste and Scheduled Tribe Order. (Amendment) Act. 2002:-

Gond, Dhuria, Noyak, Ojha, Pathari, Rajgond (In the Districts Mahrajganj, Siddharth Nagar, Basti, Gorakhpur, Deoria, Mau, Azamgarh, Jaunpur, Balia, Gazipur, Varanasi, Mirzapur and Sonbhadra).

Kharwar, Khairwar (In Districts Deoria, Balia, Gazipur, Varanasi and Sonbhadra).

Sahria (In District Lalitpur). **Parhia** (In District Sonbhadra). **Baiga** (In District Sonbhadra).

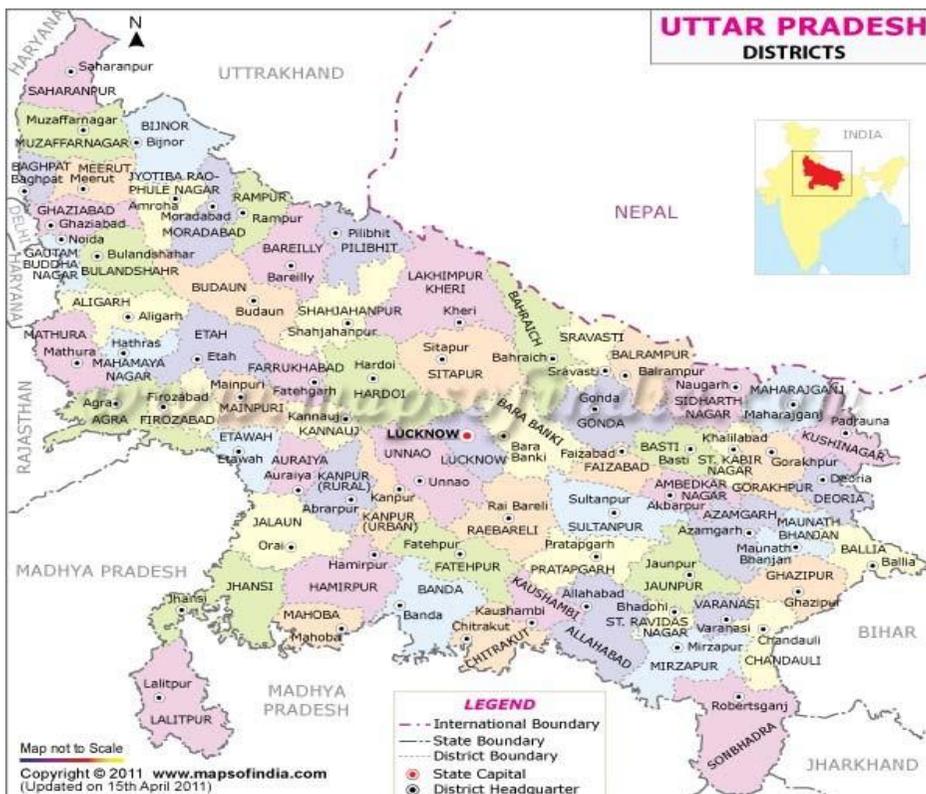
Pankha, Panika (In Districts Sonbhadra and Mirzapur).

Agaria (In District Sonbhadra). **Patari** (In District Sonbhadra) **Chero** (In Districts Sonbhadra)

Bhuiya, Bhunia (In District Sonbhadra).

Gonds –Tribal History

Etymologically, Mr. Hislop holds, that the word “Gond” originates from the Telugu word ‘Konda’, which means “a hill” ends, are also referred to as “Gonar”, which means “inhabitants of Gonds or Western Kosal”. Otherwise too Gonds have been regarded as having originally resided at “Gondwana”, besides river Remade in Madhya Pradesh State. In literal translation, Gond meant “The Brave”. Provinces of India’s as regarded the primitive dwellers of peninsular India with pre-historic affiliation going back in the past as far back as the pre-dravidians of the South. Another a bit varied approach trace their genesis to a short, long end moderately high-headed type of aborigines with flat nose and thick lips.



Gonds consider themselves to have been originally constituted as 'Kashastriya', and put on the sacred thread in its orthodox testimony. In their original status, they were invested with all good qualities, which are: abstention from drinking and meat taking, belief in God and constant devotional practices. Gonds submit that they suffered the abysmal fall to the degree of downcast and 'shudra'-hood, as a result of invasion upon them and the conquest and occupation by the neighboring 'Raghuvanshies'. The vanquishing Raghuvanshies interlocked them by intermarriages and made perjure their social, moral and religious fabric of life. In result, Gonds lament, that they lost the faith and favour of God and self respect and became victim to the hazardous addiction to the twin sins of wine and meat. After such historic degradation, they came to be treated as shudra and object of repugnance and hatred. Mr. Hislop lends full support to the version that Gonds regard themselves as half-caste, well within the folds of Hindu religion. Gonds come into many classes, such as Raj-gond, Rahghuvansh, Dadvi, Katilye, Paral, Koli, Ojhlyal, Thatlyal, Koil-muttal, Koi-koya, Kolam and Yadpal. Raj-gonds are spread in plains and mountains of Nagpur, Berar, south Bergha and North Narvada. (Singh, 1994)

Gonds - Anthropological Appraisal

All Gonds are a little below average in else than Europeans and darker in complexion than Hindu. They carry well-proportioned body but their features are ugly. Their head is roundish, nostrils distended, face long mouth wide, lips thick and hair straight back. Their beard and moustache are scanty, with skull having none of exceptional peculiarities. The hair and other accompanying features class them into 'Mongoloid Group'. Another varied version that some Gond aborigines have woolly hair, and thereby fit into another group, has been discarded as a mistake of fact.

The Gond women are inordinately tattooed, specially in legs which they consider as ornaments. Their hands and legs have tiers of rings of silver, iron, brass and coloured glass. Their ears and nose too are studded with rings. Their necklaces are made up of coins and beads. (Singh, 1994)

Gonds of Robertsganj

Gonds of Robertsganj trace the history of their entry in the village at about six generations back, when they left en masse their original abode and rehabilitated in distt. Mirzapur. Gonds of the villages, who practically constitute the entire population, are mostly agricultural people, deeply stepped into poverty condition. At one time in the past, they had superior expertise in hunting, fishing and other braving activities, which they have abandoned after about [the year 1952 under the hypnotising religious impact of one white dressed lady, who was known by the name of 'Raj-mohini', and had come from 'Sarguja'. Her visit among the Gonds, and her teachings, practices and preachings to the Gonds proved so over-whelming and spiritually-elevating that the Gonds saw in her, their supreme deity and became converts to her ways of non-violence, truthfulness and abstention from wine and meat taking. By and large, she is esteemed a heavenly messenger and constant homage is paid to her in the symbol of white rectangular flag, which will be seen hoisted in the houses of Gonds. Of very late the villagers are having growing contacts with urban life; nevertheless, the main features of their life and society are basically olden and ultra-rural.

Classes of threat to Indigenous traditional knowledge of Gonds

The preservation of Indigenous traditional knowledge is under threat. A report provided by the Indian Institute of Biological Diversity identified the following threats to Indigenous traditional knowledge:

- political pressures - the recognition and standing of Indigenous traditional knowledge, including involvement in policy and legislative development

- cultural integrity
- social and economic pressures – assimilation, poverty, education, marginalisation of women, loss of language
- territorial pressures – deforestation, forced displacement and migration
- exploitation of traditional knowledge – bioprospecting, objectification
- development policy – agricultural and industrial development globalisation and trade liberalisation. (Kelly 2005)

The lack of protection on a national level intensifies these threats. Climate change impacts and responses, particularly those resulting in increased bioprospecting of Indigenous knowledge, will also heighten the urgency of the need for a national Indigenous traditional knowledge regime. Indigenous peoples' right to have our traditional knowledges recognised and protected is currently provided for in a number of existing international treaties. In India, there are a number of national and regional (State Government) arrangements that attempt to address the lack of protection domestically, including cultural heritage legislation. Additionally, there is an increasing body of research that provides useful principles for inclusion in international and domestic regimes established to protect and maintain Indigenous traditional knowledge.

Status of Tribal Rights in Sonbhadra

Right to preservation of socio-cultural distinctiveness

Gonds tribal population's claim to the right to preservation of their socio-cultural distinctiveness has a long, complex and fluid history. While most proponents of the Gonds Movement claim intellectual ancestry to the tribal revolts of the 18th and 19th centuries, any articulation of tribal rights in the modern sense (however loosely interpreted), cannot be traced beyond the early part of the 20th century.

By the time India gained independence, Gondwana identity had emerged as a more politically assertive force and the demand for autonomy was already being clearly articulated as premised on a distinctive tribal heritage and culture and the right to preserve this distinctiveness. Alongside, nascent arguments had started emerging to stress the autonomy of the political at the local level, which must be recognized in the administrative arrangements being contemplated for a free India. In fact, some of the articulations in the Constituent Assembly were claiming a right to autonomy in order to protect and preserve a distinctive tribal culture and to ensure the exclusive right of the tribals to utilise the local resources (land, water, forests and minerals) in accordance with their customary rights. However, the discursive structures prevalent at the time of independence precluded any consideration of such rights for the tribal population and all that was conceded was the necessity to 'bring up' the tribals via a combination of paternalistic administration, targeted-development planning and reservations.

An additional factor entered at this stage: the Indian state, premised on rationalist and liberal principles of individual rights found it difficult to concede to the demand for autonomy premised on a tribal rights argument. Hence, in response to the demands for recognition of tribal rights, the state responded with promises for a more vigorous developmental effort. An example of this was the Modified Area Development Approach started under the Fifth Five Year Plan (1976-77 to 1980-81) under which Tribal Sub-Plans were developed to which a quarter of the budget of M.P. and U.P. was assigned. The Gondwani political actors, who were demanding recognition of tribal rights to autonomy, accepted this 'development-deficit' definition as an added premise for their mobilization.

This acceptance of the development-deficit definition of the premises of the gonds identity had two impacts: (a) it enabled the gondwani leadership to include non-tribals in

their mobilization by translating their identity into a regional identity from a tribal one; and (b) it created a politics of development and identity in which the state and the gondwana movement both tried to legitimize their respective views. The electorate on its part had rejected the development-deficit interpretation of their demands as is expressed in the electoral patterns of the 1980s and early nineties.

Land and forests

Land has been a central question in the contestation for rights in most parts of the country, tribal areas included. Sonbhadra is no different where access and control over land has a number of dimensions: security of livelihood, as an anchor for social and political identity articulation, as a focus of contestation of tribal rights, as a source of strength to contest and counter the state's initiatives at homogenising development, etc. Besides, land acquires an added dimension in tribal Sonbhadra – both economic and socio-cultural – by virtue of the fact that a large proportion of land is afforested and acts as a central facet of the tribals' livelihood and is at the centre of much of their socio-cultural life. "The long association of the tribes with the forests and their lower levels of socio-economic development have resulted in a higher dependence of tribals on forests for a livelihood than other population groups". The centrality of land in the socio-cultural conscious of the tribal society of Sonbhadra is attested to by the fact that the tribal revolts of the 19th century, to which much of contemporary identity articulation is traced, was primarily rooted in the colonial state's efforts at revenue extraction. While a number of interpretations can be drawn on the root cause of these revolts, scholars largely agree that the primary reasons behind the revolts were agrarian. Further, the issues of acquisition of land by the state 'in public interest', thereby not only threatening the tribals' livelihood and socio-cultural autonomy but also creating the misery of displacement and social fracture, adds another dimension in the questions of land and forests in Sonbhadra.

One of the most important issue in Sonbhadra is that of the alienation of tribal land. However, transfers do happen but owing to the illegality of the transfer, no reliable estimates are available about the scale of the issue.

Right to Socio-economic Development

The status of the right to socio-economic development of the tribal population of Sonbhadra is perhaps the lynchpin in the realization of tribal rights in Sonbhadra. Unless the state's entire ST population has access to equitable and just development mechanisms in a participative manner, there was no hope of realizing their socio-cultural rights, which is arguably already available to them. For instance, most ordinary tribals were unaware of their rights on account of illiteracy, thus rendering these rights rather empty promises. These issues also have a close correlation with socio-cultural rights such as land, forests, etc. but have been indicated by the respondents to have a central link to the contest for resource between tribals and the State and the tribals and other competing societal groups, including commercial interest of non-tribals (for instance, forests are central to tribals in their socio-cultural identity as well as for their livelihood security. However, the same forest is also coveted by the logging industry).

Displacement and Rehabilitation

One the running themes when analysing tribal rights is the issue of displacement, and related issue of rehabilitation, as they are crucial facets of much of the critical developmental discourse. These issues acquire added importance in the light of the centrality of land and habitat to the preservation and protection of tribal heritage and culture, which in turn is central to the social and political identity of the tribals. Many of the individuals interviewed during the field study stressed this issue. Without exception, these individuals

emphasized that alternatives should first be explored to not displace the tribal population from their ancestral lands and if it is inevitable, the decisions regarding displacement should be arrived at after informed consultation with the affected community. Further, resettlement of the displaced persons should be efficient and within the same socio-cultural region (to avoid the possibility of social alienation and fracture of communities), and the compensation should be fair and swift. Clearly, the issue of displacement is one of the most important factor affecting the rights of the tribal communities in Sonbhadra.

Participation, Panchayati Raj, PESA and Tribal Rights

The crucial link between the two components of tribal rights and their realization is participation. Political acceptance of rights and their legal creation is of little value if they cannot be exercised by the individuals of the group concerned, in this case the STs. This is the rationale behind the brief focus on institutions of local governance in Sonbhadra. While scholars and activist have stressed the importance of such provisions in sustaining the autonomy of the tribal customary society, culture and livelihood, these laws raise significant issues of debate.

The introduction of the provisions of the Panchayatis (Extension to the Scheduled Areas) Act (1996), commonly known as the PESA, was an attempt to extend modern democratic institutions of local governance among the tribal population in scheduled areas, while not totally replacing the traditional institutions. PESA aimed at “facilitating participatory democracy in tribal areas by empowering the *Gram Sabha* to manage and control its own resources.” For this, the ‘*Gram Sabhas* were given special functions and responsibilities to ensure effective participation of tribal communities in their own development in harmony with their culture so as to preserve/ conserve their traditional rights over natural resources. The Act restored primary control over natural resources including land, water, forest and minerals and bestowed rights over minor forest produces to the *Gram Sabha*.” The Act provides that “within the boundaries of the *Gram Panchayat*, it can use customary mode to plan and manage natural resources that include land, water and forests in conformity with PESA.” The most glaring omission is that there is no mention of ownership rights over MFPs, unlike the PESA. Instead, it provides only for “the collection, storage, processing and marketing of MFPs is to be arranged or organised by the Gram Panchayat in all areas including Scheduled Areas” and for the management and supervision of MFPs by the *Zilla Panchayats*.

The introduction of PESA created a sharp divide between traditional systems premised on customary tribal headmen and the statutory *Panchayats* who are elected democratically. The tribal groups under the banners of Sonbhadra Pradesh Parha Raja, Manjhi Parganait Manki Munda, Doklo Sohor Maha Samiti, Samiti are opposed to elections in tribal areas despite the fact that the “very idea of a special panchayat law for scheduled areas ... was to enable a form of government which built upon local traditions of participatory democracy”. On the other hand, the supporters of the PESA under the banners of Chatra Yuva Sangharsh Samiti and Sonbhadra Pradesh Panchayati Raj Adhikar Manch have been demanding immediate elections for the *Panchayats*. An intense public debate between these two extreme positions as well as all shades in between was noticed during the field study.

While the issue of the “manner in which traditional structures and processes interact with modern structures of participation” continues, what is lost in this debate is participation by the tribals in realizing their socio-economic rights, as well as their socio- cultural rights.

Conclusions: Challenges and Opportunities

The forgoing analysis of tribal rights in Sonbhadra throws up a mixed picture with respect to the status of tribal rights in Sonbhadra. However, the exercise of these rights by the

tribal population is another story. The issues of land, water, forests and local resources, which are central to the tribals for both, preserving their livelihood as well as socio-cultural identity, are under constant threat from various quarters. Formal rights are of little use in the absence of structural conditions for their enjoyment by the tribal population. It is here that the socio-economic rights enter the discussion. As has emerged in the earlier discussion, there are significant threats to the realization of the tribal's socio-economic rights. In such a situation, the possibly of the tribal population exercising their rights appears bleak. However, what is positive is the intense and vigorous public debate that has emerged on various aspects of tribal rights. This indicates a degree of democratic contestation, which can only strengthen tribal rights in Sonbhadra. The announcement by the Planning Commission that provision is being created for allocation of 25 percent of all plan funds to the development of SC/ST population⁷³ is a step in the direction of securing tribal rights.

Two examples of this new environment of public debate are the Scheduled Tribes (Recognition of Forest Rights) Bill 2005 and a Draft National Policy on Tribals. While both these documents have been severely criticized for what they fail to address, the debate and battle for the realization of tribal rights has been engaged. While the Union Ministry of Tribal Affairs will make its opinions known on these recommendations, bearing in mind the public nature of these recommendations and the intense debate around it, the 'rolling back' of these recommendation will not be easy.

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