



THE PROBLEM OF NAXALISM WITH SPECIAL REFERENCE TO THEIR RIGHTS

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Abstract

In last six decades, India has achieved significant milestones in the areas of economic growth, cultural assimilation and global political interests. However, the 8% tribal population of the country has been left to protect themselves against the guile of rich and powerful eyeing the natural resources and minerals of their indigenous land. Only geographical distance and remoteness of their habitat offered them some protection. But their isolation has also exposed them to the ruthless might of Naxal cadres, supposedly struggling to throw out the rulers of the country through the barrel of gun. None, except Mao would be happy in his grave to find faithful followers in a remote land that he never visited. This paper concentrates on the problems of naxalites with special reference to their rights.

Keywords: *problem, naxalism, rights, naxalites*

After the paved roads have ended and the dirt roads have crumbled into winding footpaths, after the last power line has vanished into the forest behind you, a tall, red monument suddenly appears at the edge of a clearing. It's 25 feet high and topped by a hammer and sickle, honoring a fallen warrior. White letters scroll across the base: "From the blood of a martyr, new generations will bloom like flowers." The monument is a memorial but also a signpost, a warning that you are entering a "Liberated Zone"- a place where Mao is alive and Marx is revered, where an army of leftist guerrillas known as the Naxalites control a shadow state amid the dense forests, isolated villages and shattering poverty of central India. Here, the Indian government is just a distant, hated idea. The sovereign Republic of India stands for socialism, egalitarianism, trans-religious secularism and national unity based on the principles of fraternity. Our independence was meant to "wipe every tear from every eye". Jawahar Lal Nehru declared in his tryst with destiny address. There was a pledge in the Preamble to the Constitution that justice, social, economic and political would be ensured for every Indian. But three score and three years later, we as a nation have much to answer for and account to generations of the past and the future. The expectations at Independence darkened into deprivation and depravation into dread, hunger homelessness, have-not status and finally despair. This gradual, slow process economic destitution and social estrangement led to the people losing their faith in the instrumentalities of the Constitution, namely the executive, the legislature, and the judiciary. Inevitably, when the State failed the confidence of the people they took to the streets, to the jungles, and to lawlessness. Terrorism was the next step; this is the genesis of Naxalism. Maoism and other forms of extremism. Today issues of tribal rights, mineral resources and naxal are of vital importance violence converge. Tribal communities make up 802% or approximately 8 in 100 Indians- an economically and culturally vulnerable and distinctive group. In last six decades, India has achieved significant milestones in the areas of economic growth, cultural assimilation and global political interests. However, the 8% tribal population of the country has been left to protect themselves against the guile of rich and powerful

eying the natural resources and minerals of their indigenous land. Only geographical distance and remoteness of their habitat offered them some protection. But their isolation has also exposed them to the ruthless might of Naxal cadres, supposedly struggling to throw out the rulers of the country through the barrel of gun. None, except Mao would be happy in his grave to find faithful followers in a remote land that he never visited.

A peep into the past: Tribal are the indigenous population of India with the Dravidian and Aryan influx coming later. Today with 573 recognized communities, Adivasis account for almost 8 percent India's population. Central India is the home to the largest tribal population. They have been provided with special provisions in the Indian Constitution with the 5th and 6th Schedules, comprising such accommodations for tribals in Central and North-east India. However, the situation of the tribals has been bad and continues to deteriorate due to neglect. For instance, the national figure for poverty among adivasis is 45.86% and in States like Orissa, the figure is 72%. Adivasis had been troubled before the advent of Naxalism, and there has been growing unrest for a long time. The reasons include struggle for identity against creeping de-culturization. Another aspect of the problem is the dispossession and marginalization of the people, caused by collusion between local politicians, bureaucrats, business community and in many cases chosen leaders of the tribals themselves.

Concerns and Challenges in India: 'Naxals', the leftwing extremists, have carved out a large area along the eastern coast of India, spreading from Nepal border to Tamil Nadu. Though started 40 years ago, the movement ceased to die out and instead had grown ominously. This region largely includes dense forests and tribal areas and consists of 92,000 sq.km. Red Corridor is the label people have given to this area, which the government machinery never dared to reach. Naxals are the uninvited and self declared rulers in the Red Corridor. In late 2009, the Indian government launched 'Operation Green Hunt' to root out the Naxals. In reality, however, the tribals find themselves sandwiched between the Maoists on one side who can't give up their armed struggle and the government on the other, that cannot put

the interests of a vulnerable minority- the adivasis-ahead of those with more money and political power, that cannot put the interests of a vulnerable minority-the adivasis-ahead of those with more money and political power. Realizing that the lack of development and the absence of governance are primarily responsible for growth of the leftwing extremists, the government has drawn development plans to win over the tribal people. Apart from this, there is the issue of implementing the *PESA (Panchayats Extension to Scheduled Areas) Act* in its true spirit.

The PESA Act- Panchayat (Extension to Scheduled Areas) Act, 1996: In 1996, the Parliament passed the Panchayats (Extension to their right) to self-governance. The law, according to Dileep Singh Bhuria, the Chairman of the committee that worked on it could 'mark the beginning of a new era in the history of tribal people...' Village level democracy became a real prospect for India in 1992 with the 73rd amendment to the Constitution, which mandated that resources, responsibility and decision making be passed on from central government to the lowest unit of the governance, the Gram Sabha or the Village Assembly. A three tier structure of local self government was envisaged under this amendment. Since the laws do not automatically cover the scheduled areas, the PESA Act was in-acted in 1996 to enable Tribal Self Rule in these areas. The Act extended the provisions of Panchayats to the tribal areas of nine states that have Fifth Schedule Areas. The PESA Act gives radical governance powers to the tribal community and recognizes its traditional community rights over local natural resources. It not only accepts the validity of 'customary law, social and religious practices, and traditional management practices of community resources', but also directs the state governments not to make any law which is inconsistent with these. Accepting a clear-cut for the community, it gives wide-ranging powers to Gram Sabhas, which had hitherto been denied to them by the lawmakers of the country. Thus PESA is a unique legislation, often described as Constitution within the Constitution, which attempts to bring together in a single frame two totally different worlds-the simple system of tribal communities governed by their respective customs and traditions, and the formal system of the State governed exclusively by laws. The full-fledged implementation of PESA will give Rs. 50,000 crore to tribal communities to develop themselves. *Nothing would deal a bigger blow to the Maoists than participative development by, for and of the tribal communities. Of the 76 districts highly infected by the Maoists, 32 are PESA districts. Hence, honest implementation of the PESA Act would empower the marginalized tribals so that they can take care of their development needs. This would deprive the Naxals of their ground support coming from the misguided and helpless tribals.*

Why then the PESA Act is largely ignored by the State governments? The main hurdle in the proper implementation of PESA comes from the *nexus of bureaucrats and politicians* who would lose authority in tribal areas. They have always subordinated the welfare of poor tribals in favour of the rich or the powerful. Giving real autonomy to Gram Sabhas, as envisioned in the Act, would leave them without much influence. Forest department officials have

long viewed the resource rich tribal regions as source of revenue. They often collude with timber mafias for petty gains. They fail to realize that forests are the only source of sustenance for tribals. In the vast tribal areas of Andhra, MP and Orissa, the tribals are primarily dependent on the collection and selling of the non-timber forest produce (NTFP). In Uttarakhand there have been reports of forest depots Development Corporation and the Tribal Development Corporation had exclusive rights for a number of NTFPs. But under liberalization wave since 1990, individual companies (for example, Utkal Forest Products) have been given collection rights for 29 NTFPs for 10 years. Various paper industries have been engaged, under the guise of 'labour contactors', for working bamboo areas. They have cornered bamboo collection rights in several forest divisions. Economic liberalization has brought the corporate giants into the region hunting for minerals for their mega size industrial exploits. Industry is wrecking havoc with the living conditions of the tribals under the liberalization regime. Their acts force the helpless tribals to leave the land they have known to be their own since ages. Compensation and rehabilitation plans are hardly ever implemented with honesty and dignity. This is a major cause of poverty and displacement as commonly seen in states like Orissa and Andhra Pradesh. These attempts to rob the tribals of their resources are criminal, especially when it occurs in places like Kalahandi and Koraput districts where starvation deaths among tribals are legendary.

How to force state governments to implement the PESA Act? Looking at the performance of State Government in implementation of PESA and their tendency to by-pass it, the Central government should issue a notification that all other laws will be subordinate to PESA in the fifth schedule (or PESA) areas. Land litigations are another headache of tribals who have been rendered landless by the rich or powerful. In order to restore speedy justice, follow the *recommendation of the B.D. Sharma Committee*. It suggested issuing notification of a date, when all pending cases in any Court of Law in which the land of a tribal is alleged to have been illegally transferred or occupied by any person or body, shall stand transferred to the Gram Sabha in whose jurisdiction the land is situated. *Only PESA has the real potential to give a fatal blow to the leftwing extremists thriving on the backwardness, ignorance, and isolation of tribal people. The "Original Indian People" of India deserve a life free of exploitation, poverty, and fear.*

Poor recognition of Forest Rights: *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)* was a result of the polity responding to protracted struggles by tribal communities and movements to assert rights over the forestlands they were traditionally dependent on. The Act turned colonial forest policy on its head, which had established the rights of the community. Further, by recognizing the validity of the gram sabha to give effect to these rights, this Act has great synergy with PESA's provisions.

However continuing bureaucratic control, resistant attitudes of the forest department officials to give ownership to communities, and inadequate efforts at awareness have led



to the slow implementation of the Act. The law lays down a clear three-stage process for recognition of people's rights. It also defines what constitutes admissible evidence. The Forest Department has a role at the district and sub-divisional levels, but only as one of the parties involved. But the department has made every effort to give itself illegal veto powers to deny rights. In most states the department is refusing to be present at the time of verification by the Forest Rights Committee, and then demanding that the claim be rejected at the screening stage as they did not attend. The Forest Rights Act requires that all rights be recognized through a transparent, public process, where the gram sabha or village assembly is central. Instead of following that process, government officers are imposing their own *diktats*. Gram Sabhas are being deliberately called at the panchayat level or even larger units in Andhra Pradesh, Chhattisgarh and elsewhere- where they are too large for adivasis and forest dwellers to have their voices heard. This is in direct violation of the Act, especially in Schedule Five areas. Even where gram sabhas have functioned and recommended claims, in Madhya Pradesh, Gujarat, Andhra Pradesh and other States, the area over which rights are being recognized is being arbitrarily reduced. People cultivating an acre of land file claims for it, have their claims duly verified, and find that the actual title is given for a tenth of the area. It is not just the process of implementation but the quality of the same that is important here, and thus the states need to make this process of implementation meaningful for the communities dwelling in the forests.

According to the Ministry of Health and Family Welfare deficit roots in the left-wing extremism-affected districts are: i). More than 3/4th of the people living in these districts have a low standard of living index. ii). Female literacy for most districts is below the national average. iii).

Less than 1/4th of the population lives in pucca houses. iv). Less than 1/3rd have an electricity connection. But while party proclamations and the evidence of poor development and governance support this hypothesis-of economic liberalization fueling socio-economic disparities, resulting in political extremism- it is necessary to note that the Maoist party, like all political outfits, seeks political power. As one functionary said, *we do not want to add windows to the existing house (India's parliamentary democracy) to improve it. We want to bring down the house, and build a new one.* The party thus has its own sharply defined goals, culminating in the overthrow of the Indian State. So for example, while denouncing 'the loot of adivasi resources', as and when necessary to further its political and military aims, the party takes money from the mining industry to fund its party operations.

Suggestions: To tackle the menace of Naxalism the following suggestions are proposed: *Attack the very causes of Naxalism:* The first and the most efficient remedy to tackle the menace of Naxalism is that the State must *attack the very causes of rise, and spread of Naxalism*, which can be done by adopting the measures as such Establishment of efficient political, judicial and administrative framework to provide quick and adequate redressal to the grievances of the people especially people in the rural and tribal areas, by establishment of fast track courts, mobile courts etc. If the

grievance redressal mechanism is dysfunctional and works are not being implemented, the resultant public anger and frustration, in all likelihood, would be tapped by Naxal groups. Fill the political vacuum in such areas, where the administration has failed to deal with the problems of the people, which can be done by adopting the following measures: *Proper implementation of the PESA* in its true spirit will be serious blow to Naxalism, when tribals themselves will be empowered. This Act provides for autonomous self governance by the poor tribals at the Gram Sabha level. Proper implementation will be a serious blow to Naxals when tribals are empowered. *Proper implementation of the Forest Rights Act, 2006* to ensure that the traditional rights of tribal communities over the forests are preserved. There is a general feeling of alienation among the tribals, who feel divested of their traditional rights by the middlemen and the industrialists. The Naxalites tap this grievance to mobilize tribals under their fold. *Amendment of the Land acquisition Act, 1894* to bring it in line with the provisions of the PESA. At the moment this colonial-era law is being widely misused on the ground to forcibly acquire individual and community land for private industries. In several cases, the practice of the State Government is to sign high profile MOUs with corporate houses (Govt. of Jharkhand and IANS), and then proceed to deploy the Acquisition Act to ostensibly acquire the land for the State Industrial Corporation. This body then simply leases the land to the private corporations- *a complete travesty of the term 'acquisition for a public purpose'*, as sanctioned by the Act. *Wean away the following of the Naxalites:* The State cannot change the thinking of the hardcore naxalites, as these men and women are Communists with absolute belief and commitment to the Maoist ideology. The Naxalite-Maoists, as they call themselves, are the 'so-called' liberators, redeemers and saviors representing the down trodden workers and landless/poor farmers who have been entangled into vicious circle of poverty, misery and wretchedness. Being the spokesmen of poor farmers and neglected tribes, the Naxalites enjoy the popular support of the masses they represent. The command the hearts and souls of the people and have started a legitimate freedom movement against Indian rule. Thus to win the war against Naxalism it is essential to gain the trust of the rural and tribal people, which is possible only with proper and planned development in these areas. Unless something radical is done in terms of a *structural revolution* in rural and tribal areas, there would be a continuous expansion of the Naxal insurrection. Further, the Government must make the people realize that the Naxalites like all political outfits are fighting to seek political power and not for the welfare of the poor or of the tribals. They have their own sharply defined goals, culminating in the overthrow of the Indian State. In other words *they do not want add windows to the existing house (Parliamentary democracy) to improve it, but rather want to bring down the house, and build a new one.* Finally, the Naxalite problem calls for a three-pronged solution: social and economic development and governance; multi-lateral dialogue; and military action.

a). Socio-economic development and Governance: As the Naxalites are fuelled by discontent from the marginalized

and the poor, a larger percentage of the national budget must be allocated to addressing the needs of these regions. More of the national expenditure needs to be focused on developing these poorer regions through initiatives regarding health, education, social welfare and rural and urban development. Government service delivery should be improved in these tribal areas. Both state and government must ensure that things such as statutory minimum wages, access to land and water sources initiatives are implemented. In coming up with strategies for national economic growth, the government must always bear in mind the possible effects of fast growth for all socio-economic groups in a country as large and diverse as India. If the social needs of these marginalized people are addressed, there will be no discontent to fuel the Naxalite's movements. *Governance: The growing Naxalite insurgency also reflects a flow in the federal structure.* Because law and order is seen as a state responsibility, the central government is unable to be implement a coherent national strategy to address the threat. The government has the overall responsibility of mobilizing development, but it cannot do so without the support of the states. The Central Government and the States need to cooperate together to solve the internal security threats and coordinate the implementation of this multi-dimensional approach. Both the Governments must complement and support each other's initiatives and strategies.

b). Dialogue: Second, the government should initiate sincere dialogue with these marginalized groups, the Naxalites. The popularity of Naxalites with the adivasis is a reflection of the fact that the government has been unaware or "unapologetically indifferent to their plight". By communicating and starting a dialogue between these stakeholders, these groups will feel that they being heard. By opening dialogue, the government can give opportunity for the rebels to join the mainstream by showing them that solutions can be created together with the government, by being part of the political system in a legitimate way. They no longer need to resort to violence to get the state's attention. For example, the former director-general of AP concluded that as a result of the ceasefire and dialogue with Maoists in 2004, the violence in the state decreased by 80-90 percent in the region. As David Pilling noted, the challenge for India's leaders will be to allow the necessary development in these poverty-stricken areas while acknowledging the rights of a neglected indigenous group.

c) Police Action : Currently, the main instrument employed by the government to address the Naxalite threat is the increasing use of the State and Central police forces. It is accepted that force is needed to combat the Maoist guerrillas; it should not be the only solution. By addressing the issue only by brute force, government risks alienating civilians who are caught in the middle. Coercion of the state will only encourage people to rally against it.

Counter Measures to be taken by the State and its intelligence agencies to tackle Naxalism: Specifically, the State Intelligence agencies, in order to tackle and keep vigil on Naxalism need to : *In Rural Areas* : Monitor caste conflicts and keep an eye on conflicting groups. Marginalized groups are usually targeted

by CPI (Maoist) for recruitment. Monitor rural land disputes between the poor/landless farmers and landlords. The former are mobilized by the naxalites through peasant through peasant fronts such as Krantikari Kisan Committee to target landlords. They resolve the dispute through force and win over the loyalty of the individual/group. Monitor the efficacy of grievance redressal mechanism of local bodies in rural bodies in rural areas as well as the efficiency of government departments engaged in developmental works. Keep a watch on organizations and individuals engaged in mobilizing tribals to identify the outfit's to identify presence and role. *In Urban Areas* : Identify LWE front organizations and individuals engaged in mobilizing tribals, and keep a watch on their activities. Identify left-leaning intellectuals and other influential sections, such as lawyers, civil society, HR (Human Rights) groups, university professors, journalists, school teachers, journalists, school teachers etc. for any association with the LWE. Check on academicians/ research scholars who may have researched on tribal/rural areas and who are retaining links with their contacts in those areas. Watch should be maintained on subscribers of LWE journals like 'People's March' of the CPI (Maoist) in libraries and universities. Watch should be maintained on businessmen/contractors involved in developmental works such as construction of roads, bridges etc. in the Naxal affected interior areas.

Conclusion

Thus Naxalism is not merely a law and order problem, it is a problem that reflects underlying issues in the Indian social, economic and political institutions. While the naxalite movement is mainly an internal threat with globalization, external and internal security threats are inextricably interlinked. India is hemorrhaging badly under the Naxalite menace and may be soon in Coma, until and unless certain long term measures are implemented in true sense.

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