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occasional paper

July, 1997

Tribals' perception on self-governance

APOLOGIES

In spite of my best efforts there are certain lacunae in the report presented mainly in the form of gaps in the information provided. The reasons are vanned like

- time constraint
- Inadequate rapport with respondents

Nevertheless, I must admit that lack of expertise on my part in scientific research has affected the study to some extent.

ACKNOWLEDGEMENT:

.For the completion of this study there are persons whom I awe more than gratitude. I am obliged to Shri Binoy Acharya for providing me such an opportunity to conduct this study.

I would like to extend my deepest sense of gratefulness to Ms.Trupati Jain for providing timely Inputs and guidance, making necessary arrangements for conducting the study and being so patient inspite of my lackadaisical attitude at times.

Needless to say that I am thankful to Mr. Sujeet Sarkar for his academic generosity and constant encouragement.

My heartfelt gratitude to the UNNATI family for providing conducive and supportive environment. I am especially thankful to Asha for her timely help Special thanks to Laxmanbhai. Hukumsingh, Bhavanbhai and Jorawarbhai. Thank you Hajibhai for taking the pain to understand and type my obstinate handwriting.

I also extend my thanks to the entire staff of the organisations I visited in the course of my study (Ankur Sansthan, Astha, NPYM, Manav Katyan Trust, Legal Aid and Human Rights Centre and Vedichi Pradesh Seva Samiti). Without whose cooperation I could not have conducted the study.

The parliament and experts to make recommendations on the salient features of the law for extending provisions of part-X of the constitution to the scheduled areas. This high-level committee comprised of 22 members 16 of whom were tribal MLAs. This committee meet on 16. 7 .91 and decided to constitute a group comprising of following members for detailed consider at ion of the matter and submission of report to the committee:

- 1) Sri D. S. Bhuriya, M.P.
- 2) Sri Khagnpati Pradham. M.P.
- 3) Prof. M. Kamson, M.P.
- 4) Dr. B. D. Sharma, Expert
- 5) Dr. BhuputderSingh. Expert
- 6) Sri Bandi Draun, Vice-chairman, SC/ST commission
- 7) Smt. Sushma Singh, Joint Secretary (Monitoring, Convener.

The group met on 25.7.94, considered the matter from various angles and decided to forum a sub-group comprising Dr. B. D. Sharma, Or, Bhupinder Singh and Smt. Sushma Singh to prepare a draft report for consideration of the group. This sub-group met out 17 .08.94, to discuss the matter in great detail.

In 17 01.95. the Bhunya committee recommendations were submitted to the government.

This report gathered dust over a year and sparked off a 3-day agitation by tribal leaders, a year after. And after a prolonged struggle by the National Front for Adivasi Self Rule, the new Act, viz. the Provisions of The Panchayats (Extension to the Scheduled Areas) Act 1996. came into being on 24th dee. 1996.

The state has consistently made special provisions or legislated specifically for tribal areas. The newly legislated Panchayati law is thus, in one sense a reflection of this. However, at the same lime. it is a clear departure from the hitherto legislations. It is not merely protective and preventive in nature. but seeks to empower the adhivasi communities themselves to participate effectively in the development of their own areas. Although this Act has been centrally passed it is yet to be enacted by Gujarat and Rajasthan government in their respective states. UNNATI- Organisation for Development Education, striving to strengthen Panchayati Raj Institutions (PRI) in Gujarat and Rajasthan is therefore helping me to conduct a study with the following objective: To enquire and understand the tribals' perception regarding self-governance. The relevant information thus acquired would be used to make suggestions to the Drafting Committee while formulating the Act.

PROCESS OF CONDUCTING THE STUDY AND METHODOLOGY:

In order to understand the concept of local self-governance and tribals perspective, I conducted a literature survey whereby I studied the relevant text (Refer Bibliography). In order to comprehend the topic, I also discussed it with persons related to the field. An interview schedule was developed basing on the text read and was put to field test. It thereby emerged that in order to elicit relevant information, an interview guide would be more useful. The other method used was observation.

I visited six areas inhabited predominantly by tribal populace.

- Jhadol tehsil of Udaipur district situated in Southern Rajasthan, near Gujarat border.
- Kolda tehsil of Udaipur district.
- Khedbrahma tehsil of Sabarkantha district situated in North-Eastern Gujarat.
- Surat district situated in South Gujarat.

I had approached the tribals in these areas thrt1ugh organizations working in these areas to strengthen the PRI.

- Ankur Sansthan (Jhadot)
- Astha (Kotda)
- Navdeep Praqati Yuvak Mandal (Poshina)
- Manav Kalyan Trust (Khedbrahma)
- Legal Aid and Human Rights Centre (Surat)
- Vedichi Pradesh Seva Samiti (Valod)

In these areas, I met and interacted with the Mukhis, sarpanch, panchayat members, women and educated youths, either individually or in groups. The purpose behind going for group interview was to get a triangulation of views given by the respondent regarding some common question. The selection of the respondents was thus on the basis of purposive sampling. Handfuls of very important

information were gathered from the field of the respective organisation. After data collection was completed, I compiled the findings and presented them in the form of a report.

GRAM/ GRAM SABHA

An important fact of tribal situation is that the community still continues to be a living and effective institution. The community regularly sits together to adjudicate disputes, exercises social and religion control and decides on some specific economic and agricultural activities. Life is not segmented and divided into different watertight compartments such as economic, religious, social, administrative and political, as in the formal structure of government intervention. In the traditional system, life is an organic whole.

Tribal life style depended completely on land and forests. Hence, they came to have a close, harmonious, almost symbiotic relationship with nature. This has resulted in essentially non-competitive and community centred culture. As the hitherto inaccessible areas were thrown open to the outside world rampant exploitation began to take place. Due to large scale deforestation, they were faced with a shrinking habitat. Their contact with alien culture, created new wants, forcing people to indebtedness and gradually reducing them to marginalized exploited group in their own homelands.

While they are urged to join the main stream in reality, they are thrown into a society which is diametrically opposed to their way of life. Tribal law, tribal customs are given no weight age. While forced to compete on other people's terms, they find themselves woefully ill-equipped. In the process they are left de-culturized. pauperized. on the fringes of non-tribal society.

The Bhuriya Community, report spelt out as of its basic premises that the scheme of tribal governance should be pre-eminently related to participative democracy, particularly at grass root tiers. Autonomy for institutions under contemplation at grass root and district levels should bear a living relationship with self-management practices which have been in vogue in tribal areas.

The Act recognises the existence of tribal community institution and the validity of traditional customs and practices. It makes it mandatory on the legislatures of the state to a State Legislation that shall be in consonance with the customary law, social and religious practices and traditional management practices in community resources. "It goes on to state that the Gram Sabha shall be competent to safeguard the traditions & customs of the people, their cultural identity, Commercial resources and the customary mode of dispute resolution.

Clause 4 (a) states that a village should ordinarily consist of a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions & customs. (APPENDIX-1)

Perceptions on Gram Sabha:

-Majority of the respondents in Jhadol and Khedbrahma district has opined that constitution of village should be hamlet-wise.

Vijay Lal, a tribal leader of Loonk Village, Kotda tehsil, said that every hamlet has their own leader who presides over the day to day activities of his hamlet and resolves the conflict arising there in. Hence, gram sabha should be hamlet-wise

A section of respondents Delwada village of Posh in a however felt that a group of hamlets should together have a single gram sabha. If each hamlet has its own gram sabha it will create more problems than solutions because rivalry will be generated

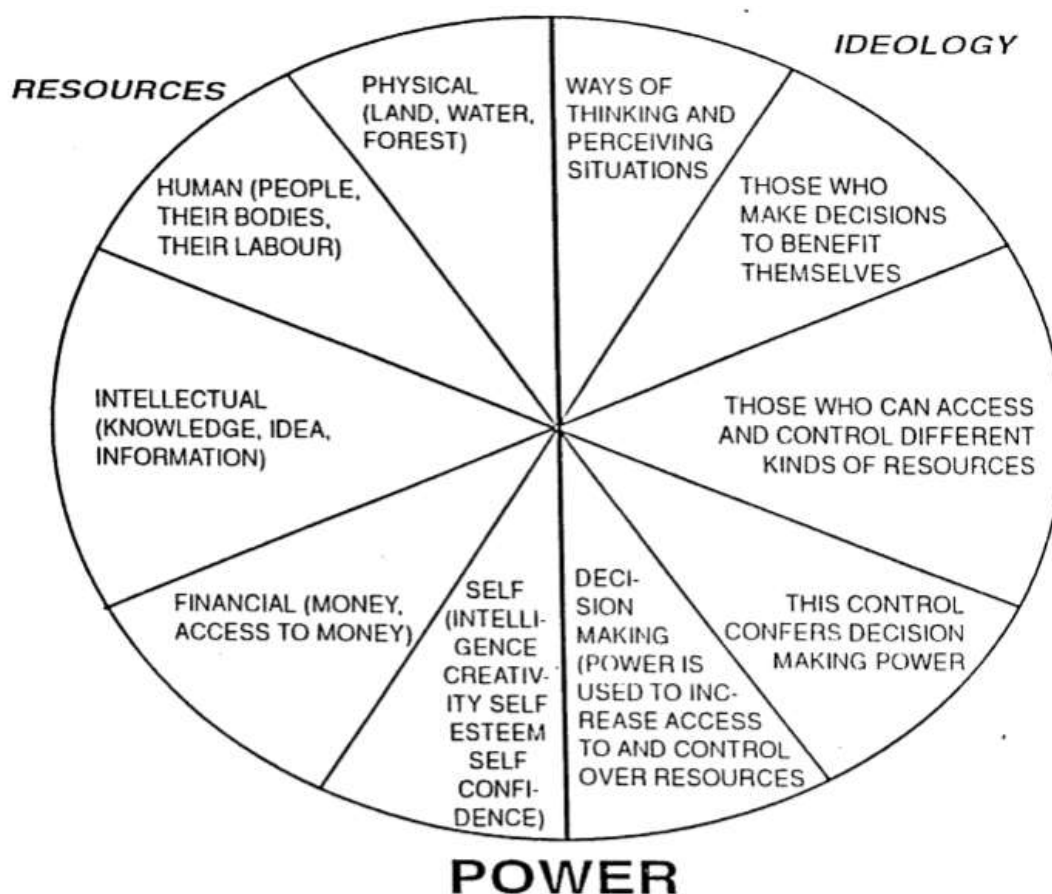
Majority of respondents in Nijhar Taluka said that the existing system of village and village assembly should continue.

According to an ex-member of gram panchayat in Nijhar, "the constitution of gram panchayat should be changed more members of every ward should be elected. This would ensure proper need-based management and one panchayat can manage a population of 15,000".

The needs of different regions differ For, instance, in Jhadol, 40% of the population are 'Kabir Panthi' (followers of Kabir). As a result, they abstain themselves from consuming intoxicants, sacrificing pado (he buffalo), eating flesh etc. Again, 'while Jhadol, Kotda and Khedbrahma, are predominantly populated by tribals, areas like Nijhar, Jonkhwah of Surat district have a section of Maharashtrais.

The New Act seeks to empower the Gram Sabha lay its novel provisions. The most conspicuous feature of the term 'empowerment' is the word 'POWER'. Power can be defined as "control over resources and control of ideology"

This has been explained with the help of the following diagram:



LAND:

My land is my backbone . I only stand straight proud and not ashamed about my colour because I still have land. I can dance, paint, create and sing as my ancestors did before me. My land is my

foundation. I stand, live and perform as long as I have something firm and hard to stand on. Without land... we will be the lowest people in the world, because you have broken down our backbone, look away my arts, history and foundation. You have left us with nothing".

The aforesaid words of an aboriginal leader of Australia is very much the pleading voice of innumerable tribals today. Tribals are inalienably related to land. Earlier, land was not a commodity as it was freely available to them for centuries. At a certain stage of evolution of tribal society, there was a dependency on land for making livelihood but despite that, they never used to hold it under the strict sense of individual private ownership of property. The first fundamental need of tribal survival and cultural viability is continued habitation in and use of the traditional land areas. The tribes economic resource management, socio-political organisation and belief system come lightly women into particular land areas inhabited and used to obtain and produce all necessities. Maintaining traditional land-based pattern of enrichment adaptation is essential to the perpetuation of most aspects of tribal way of life. However, the tribals are faced with problem of dispossession of land occurring due to various reasons:

- Some willingly part with land to be engaged, in non-agricultural occupation.
- Sale/ mortgage of land due to economic constraints, indebtedness or investment in other activities is another factor.
- Illiteracy and ignorance of tribals are exploited by manipulative intruders and land is transferred by foul means.
- Extension of industry create situation for land grabbing.
- Rivalries between two or more factions also lead to dispossession of land.
- Displacement due to mega mining and hydel projects.

Perceptions-

- (i) The Forest Department claims the treeless lands as forest land. This is to be stopped.
- (ii) Lack of proper record of rights results in harassment of the tribals. This should be rectified.
- (iii) Tribal leaders should have the legitimised power or authority to defend tribal lands against intrusion by outsiders.

FIGHTING FOR THEIR RIGHT:

When the government officials surveyed the 2000-acre land area of seven villages in Khed Bhrahma district (Halhipagla, Jamroo, Udawas, Polidara, Mota Bamodarn, Chota Bamodara and Jotsar) little did the village people knew that the purpose is to displace them from their fertile agricultural lands, their sole source of sustenance for building a dam. However, due to timely intervention of Manav Kalyan Trust, an organisation striving to eradicate oppression and exploitation of the tribals and underprivileged of North Gujarat, the tribal started organising themselves to deal effectively with their problems.

A meeting was summoned by traditional leaders whereby five task forces were formed:

- Vahan Committee (responsible for damaging the tyres of the vehicles of the government officials).
- Markool Committee (one armed with bow and arrows this committee would attack the intruders)
- Baja Committee (To warn and assemble people at a particular point, the drummers would beat the drums and emit danger signal.)
- Nakabandi Committee (To gherao the government officials)
- Kapafaad Committee (To tear the clothes of the intruders)

As a result of such resistance the government were forced to stop work. Presently, the villagers have filed a case in Ahmedabad High Court fighting to earn their land rights.

FOREST:

The word 'forest' is derived from the Latin word 'Foris' meaning outside, the reference apparently being to a village boundary of fence. Thus, originally a forest must have been boundary or fence, including uncultivated and un-inhabited land. Technically, forest has come to be defined as an area set aside or maintained under vegetation for indirect benefits namely, climatic protective or environmental and /or for production of wood and non-wood products. It is not only a perennial source of food, fodder, forage and flosses but are also a great employer, benefactor and natural guardian of the community. Traditionally, the tribal economy depended to a large extent on collection activities in the forests, for food, for making shelter, medicine etc. However, MFP has now acquired commercial value and is collected for industrial purpose. In an area where job opportunities are few and viable economic alternatives are non-existent, the forest dwellers take to collection and sale of MFP as their secondary occupation.

According to the National Commission on Agriculture (NCA) Report, 1976, Minor Forest Produce/Products (MFP) include all products obtainable from forests other than wood (GOI, 1976. 229). This category includes varieties of grass and fiber, lac, gums, mushrooms, tender leaves, mahua, ritha etc.

MFP has a vital role in culture and religion. The first collection of tendure leaves is celebrated among the tribals in Kotda tehsil. Women while collecting MFP spend some time apart from household drudgery and enjoy the finer instincts of their life. They also meet each other and snare issues related to life. discussing their preferences and grievances, and vibrance, wishes and cristens. Thus MFP also act as a social catalyst fostering harmony, fellow feeling and greater sense of belongingness.

The significance of MFP has increased several folds in recent times since lumbering has been stalled almost throughout the country through changes in government policies. In the present situation, the importance of MFP has gained so much that the Report of the Committee on Forest and Tribals in India. 1982, states that proper handling of the MFP. policies can bring about revolution in the life of forest dwellers. However, the policies related to MFP nationwide, have been so top-sided that they have perpetrated exploitation of the forest dwellers, both by the state and private sector.

To recognize the rights or the forest dwellers to collect the MFP, to preserve and safeguard the community resources, the gram sabha has been given ownership rights over MFP clause 4 m, ii).

Perceptions:

- Cooperatives should be formed at every gram sabha. The members will be selected through consensus. These members shall be entrusted with specific responsibilities
- Collection of MFP
- Settling the rates
- Deciding about consumption and sale
- Protecting the forest area from outsiders
- Accounting.

Such cooperatives will guarantee the tribals deeper sense of self-respect and mutual understanding. It is pivotal in rallying them against the age-old exploitation practices of the middleman and generate awareness among them.

In day, there exists Van Samiti whereby, people manage the village forest's as deceneated by forest department officials. In order to protect the forest area, the forest has been divided into and different areas for grazing of cattle, cutting of grass and bamboo for household purposes and for collection of MFP.

A STEP AHEAD:

In Kotda tehsil, tender patta Saybaba sami has been formed by the Adivasis with the help of an organisation named ASTHA. As a result of sustained efforts, there has been a raise of wage of tender patta collection from Rs. 7/- per bundle (comprising thousand bides) to Rs. 35/- per bundle.

MINOR WATER BODIES:

clause 4(j) entrusts planning and management of minor water bodies to the panchayats at the appropriate level in the Scheduled Areas.

PERCEPTIONS:

Proper study must be made before construction of wells or installation of hand pumps.

-A committee shall be formed to assess the requirements identify the problems and solve the same. This committee shall have representation of women (Since they face the problem the most) educated youth and teachers.

-The panchayat should work on this issue after consultation with the Gram Sabha members.

WOMENS AND TRIBAL SELF -GOVERNANCE

• As long as to the women in India do not take part in public life, there can be no salvation for the country..... it would have no use for that kind of Swaraj to which women have not made their full contribution." - Mahatma Gandhi

Even though the Constitution makers have adopted a democratic pattern of government and declared India to be a Republic, women's participation in the decision-making process has been marginal. Though women's participation in the independence struggle against British colonialism long with men had been significant, in the post-Independent era it fell to an abysmally low level.

However, with the passing of the 731d Amendment Bill the political scenario has begun to undergo a vast change. Politics which had hitherto been perceived as exclusively male arena is no longer seen to be so, rather its being seen more and more as a means of empowerment of women as the most effective instrument to remove their inequality, invisibility and powerlessness.

A large number of exploited, disadvantaged and powerless rural women get the opportunity to enter active politics at the basic level, i.e. the Panchayati Raj Institutions (PRI). But, to make this venture successful, women are yet to become aware of their inner strength and potential that have been suppressed for ages reducing them to a secondary position in every walk of life. What is essential for them is to acquire self-confidence, leadership communication and management skills and most importantly the courage to make and implement their own decision.

Nevertheless, reservation is not a magic rod which shall change everything. One is always inquisitive of the implications of these new development's reservation for women in the local self-government bodies, e.g. Whether the fact of more women in power will drastically change the nature & character of politics? Or, will there be less corruption and lesser criminalization of politics. Are they treated as equals by their mate counter-part in politics? Needless to say, social reality is so, complex that it is difficult to predict anything in clear terms. But the first step towards realisation of a goal had to be taken somewhere, some time

VIEWS EXPRESSED BY MEN FOLK

(i) Women are unable to carry on the tasks due to lack of confidence. They are un-educated and in-experienced. They fail to be authoritative. Most of them do not attend meetings. Their husbands work on their behalf.

(ii) Few felt that although presently women are not performing as expected, yet gradually they will improve.

(iii) Many felt that women should be given 50% reservation since they could work better than men with sincerity and punctuality. They are not corrupt like men.

(iv) A section expressed that women should stick to household work. To be a member of the panchayat, lots of activities have to be dispensed - this will affect work at home.

VIEWS EXPRESSED WOMEN FOLK:

-Majority felt that reservation is a welcome step and should be increased to 50% step. Even though women are present in the PRI, they are dominated by their male counterparts hence an equal representation is essential.

-Women can understand the problems of day to day life more easily and therefore can contribute in decision thinking process.

-Women should be educated and made aware of the outside world. However, it will take time to overcome the hesitation.

-Few felt that it was difficult for women to work simultaneously at home and handle work panchayats. Men at home should support them and divide work. It's difficult to travel to the Panchayat office if situated far away.

Alcoholism and its Prohibition:

Clause 4(m) (I) endows the gram sabha with power to enforce prohibition or to regulate or restrict the state and consumption of an intoxicant.

Interactively Woven in tribal culture, alcoholism forms apart of every ceremony festival. It is said that when Yamraj (the God of death) came to fetch the soul of a cutter in the primitive age, he hid Yamraj in the bark of a tamarind tree. When Yamraj was not to be found, Vishwakama or Brahma (the god of creation) came down to earth to look for the lust Yamraj. Finally Brahma came to the wood cutter's house but he was unable to get the secret out of him. Then Brahma grew a Mahva tree, prepared liquor out of its flowers and offered the divine drink to the wood cutter. When he was drowned under the effect of liquor, he gave away the secret. The Adivasis have been distilling liquor since centuries. In earlier times gifts were exchanged as taken and liquor was consumed to celebrate the social occasions like 'naming', 'shaving', 'marriage' and 'death ceremonies'. Even when a child is born a drop of alcohol is smeared on his lips so that he grows up health.

The new Act clause 4 m (c) endows the gram sabha with the power to enforce prohibition to regulate or restrict the state and consumption of any intoxicant.

Perceptions: Majority of the respondents opined that consumption of alcohol has been creating social and economic havoc. The drunk men fight among themselves and even beat their wives. This often results in grievous crimes like murder which consequently sparks off further animosity and violence among the contending parties. Hence, alcoholism should be banned.

Few felt that the practice should be regulated. Alcoholism being a part of Adivasi culture cannot be eradicated. If gram sabha is empowered then it will decide the amount of liquor to be consumed during any festival. If this limit is violated, then the deviants will be punished with fines fixed by the gram Sabha.

Views were also shared that commercial vending of liquor has caused damage to tribal economy. Hence, not only those who are consuming liquor but also those who are selling the same should be punished.

Women said that alcoholism affects them the most since drunkenness destroys family lire. It leads to wife battering and maltreatment. It also casts an unhealthy influence on the children Small children of the age of 10 would consume alcohol at the time of marriage dances. Jassuben of Poshina said that, "drinking is prohibited in Gujarat but aspirants cross the border and satiate their thirst in Rajasthan. Thus, there should be collaboration among neighboring state in the venture towards abolition of alcoholism.

Endeavor to create a New Social Order.

The idea of changing the economically burdensome and exploitative rituals related to the social and religious occasions among the Bhils was initiated by some well-meaning leaders of the dungri Bhil Adivasi Samaj and few voluntary organisations working in the area viz. ASTHA - Udaipur. DISHA - Himmatnagar, Manav Kalyan Trust - Kheroj, Navdeep Pragati Yuvak Mandal Chandrana - Poshina and Gangath - Modasa.

During the late 80's ASTHA, while working among the Bhils of Kotda (border of Rajasthan) area made an appeal to change the exploitative social customs with the active support of the Bhil community leaders. It received a good response from the tribals, but was not successful as they were unable to spread the message and involve the Bhils of the other areas in which ASTHA was not working. In order to involve all the other Bhils of the areas (at least in the area of social interaction) ASTHA invited other voluntary agencies. The other voluntary agencies working in the tribal belt responded positively.

All the organizations resolved to take steps to address the issue of indebtedness and exploitative social customs to begin with in 1992, Navdeep Pragati Yuvak Mandal formed a 'Daru Bandhi Samiti' (ban on liquor committee) to refrain its staff members and associated tribal activists from alcohol consumption.

On April 18, 1993 about four thousand dungri (mountainous region) Bhil Adhivasis (tribals) residing in the border area of Gujarat and Rajasthan gathered at Chaitra Vichitra Mahadev in Gunbhakari village situated in Sabarkantha district of Gujarat to express their determination to reform the age old exploitative social norms and customs. They resolved, by drafting a constitution, to reform some of their social customs which were responsible for their exploitation, backwardness and poverty. The venue of the meeting is considered very sacred by the tribals It is the meeting place of three rivers Sabarmati, Akul and Vyakul. It is on this pavitra (pure) land, the Bhils took an oath to abide by the newly formed social laws.

Highlights of the constitution regarding use of Alcohol in Rituals:

- Liquor is totally banned even on all social and religious occasions
- If a person is found drunk he/she has to pay a fine of Rs. 1000/-
- If a person is found to be distilling liquor a fine of Rs. 2000/- is imposed.
- If the person is found to be selling liquor a fine of Rs. 5,000/- Is levied.

The efforts undertaken bore fruit. but not for long. After 8 months of abstinence from a consumption and selling of alcohol by villagers. ills started creeping in. The corrupt police personnel of lower ranking started encouraging the vendors to start their business again because as soon as liquor vending was stopped, the police personnel were deprived of their 'extra' income in the form of bribe Hence with the support of the police the problem of alcoholism took roots again.

TRADITIONAL LEADERSHIP AND ITS VIABILITY:

Notwithstanding all good intention and also sometimes sustained effort as under tribal sub plans, the situation in tribal areas continued to deteriorate. This was so primarily because of the accentuating conflict between traditional institutions and the modern formal Institutions. This aspect has been consciously Ignored by the ruling elite. Even In a conflict situation, which obtains in the tribal areas, the modern system comprising the entire administration and other institution share the perception of the ruling elite and not of the people Thus the police station is an outpost of an alien system rather than a people's institution for maintenance of order and protection of the tribal people.

It has been observed that the lower functionaries of departments like police, excise, forest. revenue have been repressive and exploitative. The Bhuriya Committee felt that in tribal areas, the role of the functionaries is minimal, whereas they tend to overbear on the tribal and village communities. To eliminate undue interference, the role of police should be minimal and confined to law and order and heinous crimes.

Every hamlet. or a group of hamlets composing of a village, has a 'mukhi' or traditional leader. Earlier a post in governmental machinery, by the name 'Mukhi Patel' existed which was withdrawn with the revival of Panchayati Raj. The mukhi patel played major role in resolving conflicts between parties. One custom practiced in case of their death of a woman is called Ver Pratha (revenge). In this the bridegroom's family is not allowed to cremate the body of the deceased women until they promise to pay a sum of money to the bride's family as fine. This solution was traditionally practiced to monitor if the cause of death was found to be a case of murder. In recent times however, this practice has been distorted. Even if the woman has had a natural death, the bride's family demand 'ver' to be paid, without which they do not allow the body to be cremated. The amount of 'Ver' to be paid, without which they do not allow the body to be cremated. The amount of 'Ver' runs into thousands of rupees. The Mukhi settles the matter by deciding the amount of 'ver' to be transacted. Again, during Holi, Diwali or other festivals. the mukhi summons the villagers to his hut and celebrate the festival.

Apart from this, due to alcoholism, men folk often fight among themselves over petty issues. Especially during marriages, intoxicating drinks are consumed by most and often men get involved in skirmishes which when takes serious form results in murder. If the villagers want to lodge a FIR then it is the mukhi who accompanies him to the police station. Furthermore, the mukhis caution the villagers about the on -coming danger by sounding drums. Drums are also beaten to summon meetings lent the sound of the former is different. Although the post of Mukhi patel is non-existent, yet, people continue to respect him and astride lay his decisions. However, not all villagers acknowledge his discussion. A section of youth having been exposed to the outside world the educated lot break away from the traditional system.

However, in Nijhar, most of the people expressed that in case of conflict related to land distribution or marital discord, they would go to the panchayat. These cases are also dealt with at Legal Aid And Human Rights Centre, an organisation in Surat working to settle marital discord and land related issues outside the court rooms.

VIEWS OF USF

Deepak Chaudhary, a tribal lawyer was skeptical about the implementation of the Act. The act is not a result of people's initiative. It is again the "Sarkar" who has formulated it. After its enactment in Gujarat, the tribals will be 'Kings' overnight (as per the Act) without themselves knowing. There has been no endeavor to generate awareness among the tribals and educate them about their future responsibilities.

Secondly, clause 4(f) states that every panchayat at village level shall be required to obtain from gram sabha a certificate of utilisation of funds by that panchayat for the projects referred to in clause (e).

This means that the control over finance is again invested with the panchayats and the role of gram sabha is perished.

Thirdly clause 4(e)(i) states that every gram sabha shall approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the panchayat at the village level. Now here it has been mentioned that the gram sabha or any other people's body will be involved in formulation of plans.

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APPENDIX-I

THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) BILL,
1996

A

BILL

to provide for the extension of the provisions of part IX of the constitution relating to the Panchayats to the Schedule Areas.

As it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows.

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. Short title
2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in clause (I) of article 244 the Constitution. Definition
3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4. Extension of part IX of the constitution.
4. Notwithstanding anything contained under Part IX of the Constitution the Legislature of a state shall not make any thing under that part which is inconsistent with any of the following features, namely-
 - (a) a state legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources.
 - (b) a village shall ordinarily consist of a group of habitations or a hamlet or a group of hamlets a comprising community and managing its affairs in accordance with traditions and customs.
 - (c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level.
 - (d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution:
 - (e) every Gram Sabha shall-
 - (i) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level.
 - (ii) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes:
 - (f) every Panchayat at the village level shall be require to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the projects referred to in clause (e)

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that panchayat for whom reservation is sought to be given under Part IX of the constitution.

Provided that the reservation for the Schedule Tribes shall not be less than one half of the total number of seats.

Provided further that all seats of chairpersons of panchayats at all levels shall be reserved for the Scheduled Tribes:

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the panchayat at the intermediate level for the panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that panchayat:

(i) the Gram Sabha or the panchayats at the appropriate level shall be consulted before making the acquisition of land in the scheduled Areas for development projects and before re-setting or rehabilitating persons affected by such projects in the Scheduled Areas: the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.

(j) Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level:

(k) the recommendations of the Gram Sabha or the panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals in the Scheduled Areas.

(l) the prior-recommendation of the Gram Sabha or the panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specified with-

(i) the power to enforce prohibition or to regulate or restrict the state and consumption of any intoxicant.

(ii) the ownership of minor forest produce

(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribes.

(iv) the power to manage village markets by whatever name called:

(v) the power to exercise control over money lending to the Scheduled Tribes:

(vi) the power to exercise control over institutions and functionaries in all social sectors.

(vii) the power to control over local plans and resources for such plans including tribal sub plans.

(a) the state legislations that may endow panchayats with powers and authority may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any panchayat at the lower level or of the Gram Sabha.

(b) the State Legislature shall endeavor to maintain the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Notwithstanding anything in Part IX of the Constitution with exceptions and modification made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas immediately before the date on which this Act receives the assent of the President which is inconsistent with the provisions of part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President.

Provided that all the panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the legislative Assembly of that State or in the case of State having Legislative Council by each House of the Legislature of the state.

STATEMENT OF OBJECTS AND REASONS

The constitution (Seventy-third Amendment) Act, 1992 by which a new Part IX in the constitution was added to enshrine therein certain basic and essential features of the Panchayati Raj Institutions to impart certainly continuity and strengthen to them was brought into force on the 24th day of April, 1993. Article 243 G of the Constitution provides that the Legislature of a state by law, endow the panchayats with such power and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level with respect to the preparation of plans for economic development and socio justice and the implementation of schemes of economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule to the Constitution.

1. The bulk of tribal population lives in Schedule Areas and Tribal Areas. In so far as the Scheduled and the Tribal Areas are concerned. Sub-clause (b) of clause (4) of article 243 M of the constitution provides that parliament may, by law, extend the provisions of Part IX to the Schedule Areas and Tribals Areas referred to in clause (1) of that article subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of the Constitution for the purpose of article 368.

2. There have been persistent demands from prominent leaders of the Scheduled Areas for extending the provisions of Part IX of the constitution of these areas so that Panchayati Raj Institutions may be established there. Accordingly, it is proposed to introduce a Bill to provide for the extension of the provisions of Part IX of the constitution relating to panchayats to the Scheduled Areas with certain modifications providing that among other things, the state legislations that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community sources every village shall have a Gram Sabha which shall be completed to safeguard and preserve the traditions and customs of the people and shall be vested with the powers to approve the programmes and projects for social and economic development as also identification of beneficiaries under such programmes. Panchayats at the appropriate levels shall be endowed with ownership of minor forest produce, the Gram Sabha or the Panchayat at the appropriate level shall be consulted for granting prospecting licenses or mining lease of minor minerals and their prior recommendation obtained for acquisition of land in the Scheduled Areas for development projects or

for resettlement of project affected members of the scheduled Tribes. Panchayats at the appropriate level and the Gram Sabha shall have the power to prevent alienation of tribals lands and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe, have powers to regulate money lending to the members of the Schedule Tribes, to manage village market and to enforce prohibition on to regulate or restrict sale and consumption to any intoxicant, State legislations shall endow the panchayats at the higher level from assuming the powers and authority of panchayats at the lower level or of the Gram Sabha the offices of the Chairpersons in the Panchayats at all levels shall be reserved for the Scheduled Tribes the reservation of seats at every panchayat for the Scheduled Tribes shall not be less than one-half of the total number of seats.

3. The Bill seeks to achieve the aforesaid objectives.

New Delhi
The 6th December, 1996

KINJARAPU YERRANNAIDU

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