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India's 3D Policy of Governance and the Integration of North-Eastern Region

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ABSTRACT

The Integration of North Eastern Region of India into the main stream governance was a humongous task that was faced by newly independent nation amidst the already surfacing socio-political challenges as a result of the collapse of the century old colonial rule. This necessitated the founding fathers not only to integrate and hold the nation together at one hand but also inculcate dissent to re-engage within the established belief of democracy and self-determination in the minds of the populace. Adhering to this belief the subsequent governments of free India further enabled the patience for policy of democratic interweaving through a series of measures in premediated or sometimes situational stages that can be attribute to 3D – Dialogue, Democracy and Development. The 3D policy of the Government of India is flexible inclusive policy which it uses to tackle and mitigate many of its domestic challenges and limitation. This paper will only deal with the implementation of this policy in regard to integrating seemingly believed to be completely contrasting ethnic way of living into the ambit of wider idea of democracy and institutional governance, something which was rendered to be impossible by the experts when India started its journey as Independent democratic nation.

Keywords: Dialogue, Democracy, Development, Governance, North East India, Constitution, Administrative Integration.

I. INTRODUCTION

The challenge to amalgamate the essence of tribal culture and customs in the mainstream governance process of India as a whole was one of the most arduous and difficult tasks free India faced right after its independence. The magnanimity of the task was so grave that a plausible and specific solution was almost impossible to carve out, hence India adopted a twofold inclusive policy approach best described in the words of India's first prime minister Jawaharlal Nehru "The Tribal areas have to be progressed...and they have to progress in their own way. Progress did not mean an attempt merely to duplicate what we got in other parts of India. Whatever good in rest of India would be adopted gradually and whatever changes that would be worked out by tribals themselves". In other words, the Nehruvian policy approach

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toward tribal integration mandated that outside imposition or compulsion should not dictate the pace of development along the lines of their own geniuses. The problem was how to craft a synthesized action plan for these two seemingly contradictory approaches. Additionally, there were other pressing matters that required equivocal attention, such as traditional tribal rights over land and forest, a policy framework to encourage tribal languages, extending skills to carry out administrative reliance of tribal people by themselves, limiting the possibilities of over-administration of tribal areas, etc². In an afterimage, the Census 1971 reflected that there were 400 tribal communities residing in India numbering around 38 million which was 6.9% of the then-total population. These numbers have seen exponential growth ever since, as evinced by the more recent 2011 census report which states that the tribal population in India constitutes 104.2 million people which is 8.6% of the current population, of which 93.8 million live in Rural areas while rest 10.4 million habituates in Urban areas. Not only that literacy rates among scheduled tribes have also seen growth from a measly abysmal rate to 59% at current times, alongside the national average of 73%³. How the government of free India was able to answer the tribal plight with this positive growth and navigated through the imposing administrative challenges of incorporating inclusive policies at the behest of harrowing national developmental goals? Whether it was able to properly address the same? And what is the future discourse? We will try to answer these questions with the help of one excerpt out of such attempts in respect by studying the region North-East and its discourse through the past seven decades of the Republic, and the attempt made by Government of India tried to mitigate this through 3Ds – Dialogue, Democracy and Development

A close introspection of the evolution of constitutional provisions pertaining to the tribals may give a better insight into how institutions of self-governance emerged and shaped the special governance for tribal welfare in the Indian context. Pre-Independence, the first instance of a formal legal attempt to administer tribal areas can be found in Regulation XIII (1833) where Britishers introduced a new administration in the Singhbhum area by creating “Non-Regulation Provinces” i.e., governance through special rules for civil, criminal justice and land revenue. 1873 Inner Line Regulation was introduced which required general law of the colony would not be applicable and entry of outsiders prohibited in these specified areas. Then with the Government of India (1919), exclusive responsibility for law and administration of tribal areas was directly entrusted to the Governor General of a province which he had to execute through local officials. Census 1931 for the first time tried to define them by terming Tribes as

² BIPIN CHANDRA, *INDIA SINCE INDEPENDENCE*, 2000 Edition, Ch – 1 to 3.

³ REPORTS (1971) & (2011), Census of India.

“backward tribes” living in “excluded” and “partially excluded” areas. Lastly, the Government of India Act (1935) gave a formal administrative outline for their special governance - it required that the State could determine policy in regard to these areas directly or through agents in tribal areas, and second called for the first-time representation of the “backward tribes” in provincial legislative assemblies⁴. Post-Independence, the constitution of India took due cognizance of the administrative challenge pertaining to tribal areas by mandating watchful ambivalence of the Parliament over – First, Recognition of the Rights of Tribal people as citizens of India by formally incorporating a blend of wide-ranging legal-political and socio-economic rights under the contours of the original constitution. In order to do this, it included provisions like the abolition of untouchability, the Right to positive discrimination under Equal protection of the law, the Promotion of educational and economic interests, etc. Administrative Safeguards to the interest of the Tribal citizen further attained a fortified meaning with parliamentary intervention coupled with Judicial innovation – a concrete example can be evinced from the impeccable development of the idea of Intelligible Differentia. The first case, *Srimathi Champakam Dorairajan vs State of Madras* (1951)⁵ paved the way for 1st constitutional amendment act which added sub-clause (4) in Article 15 giving constitutional sanction to parliament’s endeavour to do positive discrimination by making special provisions for Scheduled castes and tribes in the context of public employment and education. Consequently, the policy was extended further to promotion in public employment and in private, aided-unaided educational institutions. Further in *M. Nagaraj vs Union of India* (2006)⁶ the Judiciary limited its role in such parliamentary interventions and opined that the continuation of such policy rests until the parliamentary understanding of “sufficient representation” is to be satisfied and proved on the floor. Second, Deliberated for the purpose of special administrative assimilation of Tribal areas. This includes for e.g. The President of India through a public notification can declare who constitutes a tribe or tribal community of a State or Union territory and Parliament through law can include or exclude such tribal communities issued by aforementioned public notification into either the 5th Scheduled or 6th Scheduled of the Constitution.⁷ Hence such tribes are termed, Scheduled tribes. Also, even though both schedules deal with tribes, the fulcrum of the actual parliamentary objective as to why it is being included in either of the two is distinct. The 5th schedule deals with tribal areas which although require protection but are not vulnerable enough to require special attention. Here union

⁴ SHEKHAR BANDHOPADHYAY, FROM PLASSEY TO PARTITION AND AFTER: HISTORY OF MODERN INDIA, 2nd Edition, Ch – 3.

⁵ *Srimathi Champakam Dorairajan vs State of Madras*, AIR 1951 SC 226.

⁶ *M. Nagaraj vs Union of India & Ors.*, (2006) 8 SCC 212

⁷ INDIA CONST. art. 240, cl. (1) & (2)

executive powers act as directions to respective states in regard to the administration of these areas. Therefore, there is an enhanced role of the Governor of the State, who acts as the representative of the federation in this parlance, by constantly upholding or whenever required, a communicative feedback mechanism about the administrative health in these areas between the union and the state. Additionally, the governor is also vested with the powers to authorize, modify or direct any statutory law made by parliament or state legislature in their application to tribal areas. On the contrary, the 6th schedule exclusively deals with Tribal areas of the North-Eastern region which require special attention, a total of 9 areas divided into 3 parts. These areas are allowed to have unique constitutional administrative setups known as “Autonomous Districts”⁸ – where District/Regional Council acts as primary representative bodies for governance endowed with certain legislative and judicial functions. In other words, unlike the areas of the 5th schedule, these areas are outside the purview of the executive authority of the state concerned but are subjected to direct supervision of the Centre, through the Governor, with the consent of the President. Besides the two schedules, Tribal Advisory Councils were also created in tribal areas in order to take better policy decisions for tribal welfare. However, even after such an impromptu well thought administrative setup and due cognizance of the issue, there were certain impasses that remained unanswered – Weak execution due to divergence between Union and State policies, defunct Tribal Advisory Councils, prejudicial treatment towards tribal by ill-trained officials, etc. In every democratic political discourse, when a popular demand or a well-accepted mandate based on that demand, is not able to achieve its desired objective, there always emerge a counter- reactive force of popular dissent. The ability to handle that dissent by adhering to the democratic values and principles is what constitutes the mark of a mature democracy. Something which Government of India exhibited, in this case using the methodology D for Dialogue in the first phase of integration. Thirteen Major Accords were signed to enable and promote peace-making experience in 5 administrative regions of the Indian Union – Assam, Mizoram, Nagaland, Tripura and Gorkhaland Autonomous Districts. A comparative analogy between these regions can give a clear insight of the variability of the problem faced by each one of them and what level of complexity the Government of India faced to include that variability within the ambit of dialogue, eventually finding a resolution based on common consensus. Let us take the example of first three, Assam, Mizoram and Nagaland.

Assam’s struggle against illegal immigration is not new. Fresh agitation spurted off during 1980s, as direct consequence of large influx of immigrants into the state following Bangladesh War in 1971, primarily calling the Union for settling a date for registering as immigrant.

⁸ INDIA CONST. art. 244A

Subsequently on 15th August 1985, after prolong negotiation an Accord was signed which settled the demand marking 23rd March 1971 as the demarcating date. The Union further accepted the demand for enforcement laws to prevent encroachment in tribal areas and relaxation of age limit for Assamese youth to enter Civil services. However, the settlement gave rise to new set of problems – the indenisation of Assamese cultural dominance over the political and administrative clout alienated other tribal ethnic groups. For eg. the Assam Accord swelled back the demand for a separate state for “plains tribal” inflaming the Bodo tribe quest for autonomy. Attempt of settling the same were made through two Memorandum of settlement, one in 1993 setting up Bodoland Autonomous Council and another one in 2003 elevating the Autonomous Council into Bodoland Territorial Council. In 1995, the Government paved the way for creation of Autonomous councils for Rabha, Tiwas, Karbi and Misings tribes within the State of Assam. In Mizo people’s case the ethnic domination was coupled with calamitous famine that affected the Mizo livelihood which largely was based on bamboo cultivation. The Mizo Accord (1987) signed with Government of India paved for renouncement of violence and secessionist tendencies in return of Mizo statehood and protection of Mizo custom, beliefs and ownership rights within the Indian Constitution.

The grievances of Naga people presented however a seemingly completely different overview. The Naga leaders wanted their own independence based on the rationale that no Indian ruler ever conquered them. The cause of insurgency in Nagaland was not of administrative misgovernance but was a question of self-determination. Three major agreements were signed as result of subsequent dialogues – First, The Nine Point Agreement (1947) which vouched for their self-determination within the Indian union “according to their self-determined wishes”; Second, The Sixteen Point Agreement (1960) which carved out a separate state Nagaland State within the Indian Union; and lastly the Shillong Accord (1975) in which the Naga extremist agreed to surrender and accepted to follow Indian Constitution without condition⁹.

The crux of the entire problem was realized in the fact that even though a complimentary space was created for the tribal culture to breathe within the mainstream democratic arena, its objective will still be unattended unless the direct participation of the people themselves is ensured. The question was, how? This is where second phase of integration came. With the enactment of the 73rd Constitution Amendment Act (1992), a new Part IX [Article 243- 243(o)] was added. Although the real contribution of what it actually brought with itself was the institution of Gram Sabha, which is the “only form of direct democracy” in India with an elected

⁹ Rajagopalan, S. (2008). Mapping Peace Accords. In *Peace Accords in Northeast India: Journey over Milestones* (pp. 12–29). East-West Center. <http://www.jstor.org/stable/resrep06521.8>

and appointed executive arm. In Scheduled Tribes areas, however, the amendment limited its extension, thanks to subclauses (1) and (2) of Article 243M. But provided for an exception under subclause (4) of the same Article, that if the parliament so desires, can extend the provisions of the amendments through statute to these areas. The applicability of such an extension was introspected by Dileep Singh Bhuria Committee, which submitted its report in 1995. Taking a cue from the recommendations the Parliament passed, in the 47th year of the republic, the Panchayat (Extension to the Scheduled Areas) Act which got the president's assent on 24th December 1996. It extended the provisions of part IX to Tribal areas with some modifications. The statute not only endowed the tribal areas with the tool of direct democracy but ensured the conferral of absolute powers to Gram Sabha – First by limiting the State governments to a merely advisory role and elevating Sabha as the Final Approval authority for any plans, programs, and projects for social development both in regards to identification and execution; Second, Overseer of transparency in public funds as all projects require certification of utilized funds from the Sabha; Third, identified Sabha as a “Well of the collective identity of the tribal commune” by giving them control over institutions and functionaries of all social sector such as ownership of minor forest produce, power to prevent alienation and restore land, power to exercise control over lending and prohibit/regulate/restrict the sale and consumption of intoxicants, etc¹⁰. When the act was enacted by the parliament, many institutions for grassroots democracy awareness, undertook a campaign called “pathargadhi” in which the clauses of the act were translated into Hindi and were inscribed on huge stone pedestals across the states, terming it many times as ‘Humara kanoon’ (Our law). The act contemplated Gram-Sabha as an organic self-governing unit but also went into many problems while doing so. Panchayat is a subject of state list, first and foremost it ran into conflict with establishing uniformity with the already existing state acts. This, in turn, resulted either in partial implementation especially in relation to volatile provisions like ‘control and acquisition of land resources. There is no provision for securing the rights of minority communities as the act provides for more or equal reservation of seats and reservation of seat of chairman for Scheduled Tribes at all levels, this may result in friction. Lastly, there is no autonomous body to monitor the efficacy of the implementation of the act as resounded repeatedly in many reports such as the 6th report of the Second Administrative Reforms Commission (2007) or the Mungekar Committee report (2009)¹¹. The Faultline of the statute was finally filled with the enactment of

¹⁰ Mukul. (1997). Tribal Areas: Transition to Self-Governance. *Economic and Political Weekly*, 32(18), 928–929. <http://www.jstor.org/stable/4405361>

¹¹ CHOUBEY, K. N. (2015). Enhancing PESA: The Unfinished Agenda. *Economic and Political Weekly*, 50(8), 21–23. <http://www.jstor.org/stable/24481417>

another revolutionary act dated 18th December 2006, namely The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – popularly known as Forest Rights act, which gave the Tribals (including that of North-East) the right of self-determination at least in terms of Rights over Forest resources are concerned, ending the long-drawn continuance of colonial forest laws.

The long-aspired dream of integration of North-East within the expression of India though achieved within the administrative colours, the potential of the region remained subservient due to the long struggle. This is where the third D for Development comes into the picture. Apart from the old policies like Non-Lapsable Central Pool of Resources (NLCPR) or the practice of earmarking of 10% annual Budgetary allocation by Central Ministries for the the North Eastern regions or the Special Infrastructure Development Fund (SIDF) which is one-time central package to concern NE state to cover priority projects, since 2014 a series of other policy devices are placed to drive the developmental aspiration of the region.

This includes, The North East Vision document of 2020 which envisages collective development of the region, bringing it at par with other developed regions of the country and it to be free from extremism by the year 2025. Another such policy is Prime Ministers – Development Initiative for the North East Region (PM-DeVINE) announced during the budget session of 2022-23 aims for holistic development by covering along with infrastructural projects, the social development projects based on fault needs. World Bank’s North- Eastern Region Livelihood Project (NERLP) is an example of external collaborative development effort to improve rural livelihoods of the region, especially of marginalised groups within the society for e.g. women¹². The Union government is also trying to scale up the connectivity of the region with the mainland. This includes, Externally aided projects like North Eastern Road Investment Programmes (NESRIP) in association with Asian Development Bank to ramp up investment in road infrastructure or giving priority basis to the region in Regional Connectivity Scheme UDAN. In case of railway connectivity is concern, in last eight years (2014-2022) a total of 893.82 km track has been converted into broad gauge, state capitals of Assam, Arunachal Pradesh and Tripura are well connected, state capitals of Manipur, Mizoram and Meghalaya are expected to be connected by 2023 and state capital of Nagaland by 2026. The inaugural commissioning of longest rail-cum-road Bogibeel Bridge in upper Assam, is considered to be hallmark achievement both in terms of infrastructural marble and as well as in strategic importance.¹³ The Development aspect is well received in the region as the incidence of

¹²Policies in North-East, <https://mdoner.gov.in/policies>

¹³ Boost to Railway Infrastructure in North-East, https://nfr.indianrailways.gov.in/view_detail.jsp

violence in the region has reduced by 63% in last eight years (2014-2022) compared to previous eight years (2006-2014).¹⁴

In and all the Integration of the North- Eastern Region within Indian Union will be remembered as a unique emblem among one of many India's democratic success story realised after a long drawn institutional patience and endeavour of policy initiative to inculcate democratic interweaving within popular dissent. And would set out an example for the future where democratic inclusiveness comes in contention with historical collective identity.

¹⁴ Surrendering of Adivasis in Assam (PIB) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1859665>