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Pathalgarhi: A Simmering Fire?

The abduction and murder of seven villagers in Jharkhand's West Singhbhum district in January 2020 brought an ongoing, local, mass protest to national attention.1 The police and respective authorities directly linked the murder with the ongoing "Pathalgarhi Movement" which began in 2017 and has continued and expanded ever since. Large stone plaques, symbolising the Movement, invoking specific provisions of the Indian Constitution, can be spotted at the entrances of a number of villages across Jharkhand, Madhya Pradesh, Odisha and Chhattisgarh. While the protesting tribals have been calling it a Movement for constitutional rights, the state governments have suppressed the same and dismissed it as another stir instigated by the Naxals. With the already existing communication rift deepening between the state governments and the tribal population, in a region which is notably a Naxalhot bed, the future outcomes (especially the regional security-dynamics) seem rather gloomy.

What potential does this expansion hold for transforming into a mass rebellion? How threatening could this mass rebellion prove for the overall security situation in central India? Through this paper, the author tries to study the role and impact of the response of the respective state governments, in terms of the assessed urgency, used means and the applied methods,



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Key Points

- India's tribal population has suffered exploitation for their land and resources since the colonial era. Several constitutional provisions and parliamentary statutes like Article 244(1) under the Fifth Schedule, PESA Act (1996), FRA (2006), etc., were formulated in the same light. They still await implementation.
- Tribal discontent over the non-implementation has been simmering as various mass protests ever since. A recent land acquisition-related amendment proposal in Jharkhand (2016) resulted in another such protest—
 The "Pathalgarhi Movement"—which spread from four districts in Jharkhand to districts of three other neighbouring states. It has been so far repressed.
- The Movement has witnessed sporadic incidents of violence and the possibilities of this resentment translating as an opportunity for the re-emergence of Naxalism in the region, remains high.
- A timely and well-planned response by the state governments is apposite to nip an emerging mass rebellion at its initial stages. Whether the response so far has been adequate, requires analysis.

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Pathalgarhi: ...

with respect to the overall situation amidst this emerging movement – regionally and nationally.

The Timeline

Tribal voices demanding rights guaranteed by the Indian Constitution and Parliamentary Statutes have been raised since the Panchayats (Extension to the Scheduled Areas) Act (PESA) came into being in 1996. It has been a protracted struggle which only re-emerged in a distinct form three years back – certain proposed alterations in land acquisition procedures in Jharkhand (2016) being the immediate trigger. While the Amendment Bills were being sent for the Governor's approval, massive protests erupted across the state against the amendments.

The Amendment Bills: Immediate Trigger

The Bills proposed amendments for the colonial-era Chotanagpur Tenancy (CNT) Act of 1908 and the Santhal Pargana Tenancy (SPT) Act of 1949, which have together been considered as the *raksha-kavach* (protective gear) for the tribal land ever since. The amendments to Section 21 of the CNT Act and Section 13 of the SPT Act proposed enabling the use of agricultural land for non-agricultural purposes. Another amendment to Section 49 of the CNT Act (that focussed on the diversion of tribal land for developmental purposes including roads,

an ambiguous category termed "government purposes" to the existing text, thus raising local concerns. The government initially tried to suppress the protests, but with the situation growing tense and the approaching state assembly elections, the amendments were rolled back.

hospitals, schools, mining, etc.) proposed the addition of

Nevertheless, the already heightened local sentiments turned into a larger movement in 2017 – the "Pathalgarhi Movement", which spread from mainly four districts of Jharkhand (Khunti, West Singhbhum, Gumla and Simdega) to the neighbouring districts of Madhya Pradesh, Chhattisgarh and Odisha.

Invoking the PESA Act, 1996 and the Fifth Schedule of the Indian Constitution that deal with self-governance of tribal villages – both of which still await implementation – large stone slabs (*pathals*) were spotted at the entrances of villages in these districts, symbolising the protests.

Ancient Tribal Tradition: Pathalgarhi

While it re-emerged in 2017, the tradition of Pathalgarhi can well be traced to the ancient Adivasi traditions. This comes from the traditional system of *sasandari* where Munda tribals erect stone plaques (*pathals*) to mark the

Jharkhand

Jankhand

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Map 1: Political Map of Jharkhand Map 2: Snippet of Central Indian States

Source: Author's representation, not to scale

The Pathalgarhi Movement with its epicentre in Jharkhand's four districts – Khunti, West Singhbhum, Gumla and Simdega (marked in red in Map 2) has marked its presence in the neighbouring district of Chhattisgarh, Madhya Pradesh and Odisha (marked in yellow in Map 1).

burial of their ancestors' ashes. With time, the traditional *pathals* have evolved as commemorative *pathals*, and later for marking the boundaries of tribal villages. With the rise of political consciousness among the masses through awareness drives by civil rights activists and former bureaucrats over the years, these stone slabs have increasingly been used for symbolising tribal demands for their constitutional rights.²

Incidents of Violence

Amidst the Movement, three major incidents of violence brought the Movement to national attention. In June 2018, five women activists were abducted and gangraped allegedly by the supporters of the Movement in Khunti district of Jharkhand.3 The activists, backed by a Christian missionary, were performing a street play encouraging social awareness when they were allegedly termed as dikus (outsiders) and abducted. Two men, Ajub Sandi and Ashish Longo were arrested for the same and confessed to having "raped and videographed the act" to "teach outsiders a lesson".4 In July, the search for the masterminds of the incident - Yusuf Purty and John Jonas Tidu - through a raid in the Udhburu village, resulted in massive clashes between the tribals and the police. This clash resulted in the abduction of three police guards of BJP MP Karia Munda (the Member of Parliament from the Khunti district).⁵ Four people were booked for inciting the supporters of the Movement through their Facebook posts - J Vikash Kora, Dharm Kishor Kullu, Emil Walter Kandulna and Ghanshyam Biruly, regarding the abduction and clashes with the police.6 A third major incident occurred as recently as January 2020 which resulted in the abduction and murder of seven villagers in West Singhbhum - sending chills throughout, yet again turning national attention to the Movement. While the authorities constantly hint at a "Naxal-angle" (the involvement of People's Liberation Front of India in Jharkhand), as well as an alleged interference of a Gujarat-based Sati-Pati cult, the tribal protestors present it as a genuine Movement for constitutional rights, interwoven in their ancient tribal traditions of Pathalgarhi.

Demands: How "Constitutional"?

Central India is home to a number of tribal communities with their unique lifestyle, customs, and beliefs. Most

of their life revolves around their *Jal* (water bodies), *Jungle* (forests), *Zameen* (land) and *Khanij* (minerals), which not only form an essential part of their existential identity, but also the sole sources of their sustenance. It must be acknowledged that the aforementioned demands are rooted in "historical injustice" that needs to be understood to measure the depth of tribal grievances. Several instances of tribal discontent over the exploitation of resources in tribal land, since the colonial era, still stand testimony to the sensitivities they hold in their lives.

Constitutional and Statutory Provisions

In consideration of these sensitivities, the Indian Constitution lists, under its Fifth Schedule, areas with a significant tribal population in ten states (other than north-eastern states) across the country as Scheduled Areas. It deals with the administration of these Scheduled Areas, through the establishment of Tribes Advisory Councils (TACs) that are tasked to actively assist the state governments in ensuring tribal welfare. Article 244(1) Part B Para 5(1) of the Schedule allows the Governor to: "by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification."7 Moreover, in a bid to encourage self-governance to preserve tribal identities and culture in regions listed under this Schedule, the Panchayati Raj System was extended to these Scheduled Areas as PESA Act, 1996.

The provisions of the PESA Act clearly state that any State legislation made regarding the Panchayats "shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources." Although the actual planning and implementation of all matters regarding the acquisition of tribal land for developmental activities shall be coordinated at the state level, the Act specifies that the acquisition of such land, as well as the subsequent or consequent rehabilitation of tribal villages, shall be done in consultation with the respective gram sabhas. It further entrusts the planning and management of minor water bodies with the gram sabhas. With regard to mining explorations, the Act categorically states that the "the recommendations of the Gram Sabha or



the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas."⁸

Several other provisions including those restricting the freedom of movement in tribal areas for ordinary citizens [Article 19(5)] and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (popularly called the Forests Rights Act, 2006) exist with the aim of preservation and protection of tribal communities.

The Pathalgarhi slabs erected at the entrances of the villages invoke these existing provisions and call for their long-awaited implementation in real terms. Amidst the ongoing protests, over 1,500 protestors had been charged for sedition by the Jharkhand government since 2017, although official numbers claim otherwise.9 Authorities claim that the Movement is a misinterpretation of the aforementioned provisions. They claim that the demands essentially translate into overriding the state legislature and seek complete autonomy in governance for the gram sabhas. Instances of denied entry to "outsiders", including government officials hint at the possibility of the said claims holding some truth. In a personal interview with this author, a Jharkhand-based tribal activist acknowledges instances of burning of Aadhar cards by the protestors and similar symbolic acts that are being perceived as overriding the supremacy of the Indian Constitution but condemns the media portrayal of the same. She says that the majority of the Movement runs strictly demanding the implementation of constitutional provisions and instances like the ones highlighted are only a handful. Moreover, she goes on emphasising the intent behind these incidents translating it as a symbolic protest against the nonpercolation of developmental benefits to the local tribals, ironically extracted by resource exploitation of tribal land by the State. 10 Although with the coming in of the Hemant Soren government in 2019, the process for rolling back these charges has been announced, it still awaits an on-ground commencement.11

Hume loha nahi anaj chahiye to Pathalgarhi: Has anything changed?

Considering the instances of violence that brought national attention and scare regarding the Movement, along with genuine instances of defiance of the Constitution that cannot be brushed aside, a parallel set of basic realities deserve equal attention.

Historical Injustice: Cultural Identity, Economic Security, Human Security

Jharkhand is home to over 40 per cent of India's precious mineral reserves including Uranium, Mica, Bauxite, Granite, Gold, Silver, Graphite, Magnetite, Dolomite, Fireclay, Quartz, Feldspar, Coal, Iron and Copper.¹² Initiating developmental activities like mining explorations, industrial and infrastructural development, etc., in the region have been historically central to the conflict. But, one cannot deny that such activities to appropriate scales are a necessity in the twenty-first century India. What one fails to consider is that this 'environment-urbanisation conflict' cannot be looked at in isolation. It comes with a known yet ignored background that can be categorised under three heads cultural identity, economic security and human security. The cultural identity of the tribals is essentially unique. Much of the developmental activities proposed to be undertaken, ideally requires the respective gram sabhas' prior assent to prevent an aggravated alienation of an otherwise historically alienated group. The Niyamgiri (Odisha) case is just one among the many that exist in this context.13 With gram sabhas (that can be called constitutionally deputed custodians of tribal customs) rendered powerless, tribal grievances of alienation are naturally evoked.

This worsens the grievances, putting the economic and human security of the tribals at stake. On acquisition, especially industries so established, requires a skilled workforce, which is highly deficient among the population in question. With little or no employment provision (due to deficient skills) to a group of people whose source of sustenance (land/resources) has by then been "acquired", the industrial and exploration activities, lead to large-scale displacements. These displacements, coupled with environmental degradation that follows, hit their human security, thus leaving the tribals with absolutely nothing but genuine grievances, resentment and demands for justice. Over the years, this cycle has developed a sense of natural reluctance towards developmental activities. An example is the Tata Steel plant in the region which grew its production from 1

metric tonne in 1995 to 7 metric tonnes in 2008. While the production increased seven times, the workforce declined from 70,000 workers to 20,000 in the same time-frame.¹³ Moreover, diversion of agricultural land for developmental activities since independence has displaced over 4 million tribal inhabitants in Jharkhand alone so far. A protesting slogan "Loha nahi anaj chahiye" (we want grains, not iron) created major uproar amidst the same environment.¹⁴

How much has changed since then is for our assessment. The land and resources in question offer the tribals their sustenance. Percolation of benefits of development is still lacking and it must be noted that the current Pathalgarhi Movement has also flourished in 86 of the most underprivileged villages of Jharkhand.¹⁵

Cosmetic Implementation

While the various laws and constitutional provisions to safeguard the tribal rights and ensuring tribal welfare exist, their implementation on the ground is less than visible. According to a report published in January 2019, even "eight pattas have (not) been issued in 12 years of the implementation of FRA."16 In another interview with this author, a tribal rights activist mentioned how the PESA Act implementation has been cosmetic, with hardly any powers for self-governance entrusted to the gram sabhas, since its formulation in 1996.¹⁷ A tribal rights activist based in the Surguja district in Chhattisgarh, while interacting with this author, remarked, "A majority of the problem can be settled only if what is already existing in the Indian Constitution and similar laws are implemented in letter and spirit. The tribals are attached to their jal, jungle, zameen, khanij as that is all they have as their identity and source of livelihood."18

Emerging Possibilities: A Boost to the National Economy or an Emerging National Security Threat?

The current social and economic environment developing in the region, way beyond local politics has wider implications when looked at from the security lens – regionally and nationally. The presence of the Naxals in the region is not a hidden secret. Jharkhand alone is home to 19 Left-wing Extremism affected districts – the maximum in any state in the country – the majority

of where the current movement is flourishing.¹⁹ This overlaps with the most underdeveloped districts of the state with significant tribal resentment, thus offering a perfect mix for potentially emerging as a renewed epicentre for Naxalism.

Pathalgarhi: Initial Stage of a Simmering Conflict

Since any insurgency gradually develops in phases, it is apposite to contain and resolve it in its initial stages. An annotation of Michael Lund's 'Curve of Conflict' mentioned in a recently published paper at CLAWS depicts these phases most aptly (Figure 1).²⁰

Figure 1: Annotated Lund's Curve²¹



Source: https://www.usip.org/sites/default/files/academy/ OnlineCourses/Conflict_Analysis_I-20-08.pdf

The Pathalgarhi Movement is at its initial stages requiring 'Peacetime Diplomacy or Politics', with sporadic incidents of violence, as of now. While the fear of such situations being actively used by the Naxals to their benefit certainly exists, the onus lies with the respective governments to resolve this emerging conflict, with transparency, instead of singularly enforcing containment through coercion. But for an early and comprehensive response by the responsible authorities, this development could prove disastrous for India's internal security – human, economic and political. A couple of areas could be looked at in this regard.

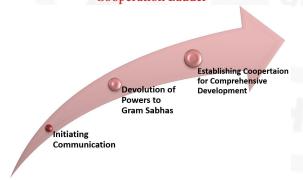
The 'Communication-Power Devolution-Cooperation Ladder': Key to Resolution

The first thing that one needs to acknowledge is the irony that, most tribal movements are noticed only after they have already crossed the constitutionally allowed limits of protest. The State needs to ensure a proactive response, instead, a reactive one that has long become

a norm. The historically existing communication gap can be majorly credited for the same. The initiation of communication with the local population by means of involvement of the civil society (that can act as a bridge between the two parties) is a primary requirement. A case in point is the comparatively quietened Pathalgarhi Movement in Chhattisgarh, as opposed to Jharkhand, due to active communication efforts, assurances and initiation for the implementation of the aforementioned provisions by the state government. Although the situation in Chhattisgarh continues to remain far from desired, the initiation of communication by the state government has indeed risen some hopes in the positive direction. Government representatives including Politicians, Bureaucrats, etc., must engage in regular public interactions, with socially and culturally acceptable figures acting as moderators between the government and the local public, in their respective areas.

This enhanced communication needs to be gradually lifted to the secondary stage by "devolution of constitutional/statutory powers to the gram sabhas", thus entrusting them with the much-awaited self-governance, under the respective state governments. A series of mass campaigns and public interactions must simultaneously be organised to prevent any over/underestimation of the powers thus devolved. A universal clarity regarding the extent and scope of the devolved powers would be necessary to prevent future conflicts emerging from minor/major disagreements.

Figure 2: The Communication-Power Devolution-Cooperation Ladder



Source: Author's Representation

The Communication-Power Devolution-Cooperation Ladder can be the key to resolving the existing conflict (Figure 2). It could result in a comprehensive development with the cooperation of all parties involved.

A tertiary stage needs to follow where the gram sabhas should be encouraged, through effective communication, to "cooperate in the development" of the region as a whole. This is the last and the most technical stage of the response mechanism, where it is pertinent for the states to ensure that a comprehensive development of the areas takes place in cooperation and not in conflict, with the local inhabitants. Three important factors could help achieve this comprehensive development – adequately harnessing the forest wealth, boosting agriculture and sustainably undertaking developmental activities (industry, mining and infrastructure).

Sources of Livelihood: A Sustainable Mix of MFP-Agriculture-Industrialisation

The tribal regions under study are treasures of renewable forest wealth [categorised as Minor Forest Produce (MFP)] with the availability of the adequately skilled human resources for the same. It holds immense potential for developing as a sustainable source of tribal livelihood, provided that the available MFP market is made competitive by value addition of the products. Training tribal gatherers for secondary levels of processing and simultaneously ensuring adequate plantation of MFP, along with corporate involvement at a later stage, would form essential elements in the process. The Central government's flagship programme "Pradhan Mantri Van Dhan Yojana" was launched in 2018. A majority of the initiative's successful completion rests on the communication-power devolutioncooperation ladder mentioned earlier.

Besides the collection of MFP, agriculture is the major occupation in these areas. In Jharkhand alone, 80 per cent of the rural population is engaged in agriculture. Most of this is rainfed, with over 92 per cent of the total cultivated area unirrigated.²² A necessary start to boosting agriculture is a preparation of a comprehensive database at individual gram sabha levels, to be further collated at the state level (It must be acknowledged that the existing database is either incomplete or non-existent).

This could be provided as an open source information for members of the civil society (for valuable inputs, the best of which could be incorporated in the policy) making the process more inclusive and transparent. Encouraging agricultural modernisation must follow.

Table 1: 1.7 Area under Major Field Crops and Horticulture

1.7	Major field crop cultivated	Area ('000 ha)							
		Kharif			Rabi			Summer	C 1 T-4-1
		Irrigated	Rainfed	Total	Irrigated	Rainfed	Total	Summer	Grand Total
	Rice			159.2					159.2
	Maize			9.04			0.65		9.69
	Pigeonpea		4.1	8.02					8.02
	Blackgram			6.82					6.82
	Greengram		41	0.95	- 401/				0.95
	Groundnut								159.2
	Wheat						2.790		2.79
	Chick pea						1.028		1.02
	Pea						2.000		2.0
	Lentil						0.445		0.44
	Mustard								

Snippet from "Agriculture Contingency Plan for District: Khunti" showing incomplete database. Last updated on 30.09.2013. *Source:* Available at: http://agricoop.nic.in/sites/default/files/JKD22_Khunti_30.09.2013.pdf

The environment-urbanisation divide can be bridged the communication-power devolutioncooperation ladder. Ensuring livelihood security and survival by skilling tribal population for the proposed activities could play a major role in acquiring consent. Under the Companies Act, 2013, India had become the first country to make Corporate-Social Responsibility mandatory through a notification dated 27.2.2014 for all companies either with a net worth of INR 500 cr or more, or an annual turnover of INR 1000 cr or more, or annual net profits exceeding INR 5 cr. A mandatory of 2 per cent of the net profits is to be spent as CSR. It must be ensured that this is utilised for setting up training centres for skilling the local population before any industrial/infrastructural/etc. project commences on the acquired land. This mandatory CSR fund can be adequately raised (to 5 per cent or as per assessed requirements) in Fifth Scheduled Areas by the state governments. It must be further ensured that a set quota is reserved for thereby skilled local population as employees in the proposed project. Additionally, ensuring percolation of the fruits of 'development', especially where ensuring employment provision is not an option, shall be normalised at the earliest.

Conclusion

Overall, nothing new needs to be formulated. Nothing extraordinary needs to be done. An efficient

implementation of the already existing constitutional and statutory provisions shall resolve a majority of the existing challenges. Initiating communication is primary to this process. The 'communication-power devolution-cooperation ladder' can help resolve a simmering conflict, which is currently at its primary stages but is potentially a major national security threat. But for a timely response, the country might repent the re-emergence of an old conflict in a new avatar.

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... A Simmering Fire?

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