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Commentary on *The Global Indigenous Peoples Movement: It's Stirring in India*

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Commentary on *The Global Indigenous Peoples Movement: It's Stirring in India**

“Constitution Within a Constitution”: The Treatment of Indigenous Rights in Globalizing India

Mayank Vikas**

The political leadership of newly independent India struggled to nurture an impoverished country back to health.¹ The government hoped that economic prosperity could resolve the chronic problems of poverty and inequality. A constituent assembly led by the reformer Dr. B.R. Ambedkar was set up to draft a new constitution. In order to correct historical wrongs, the constitution identified disadvantaged communities and listed them in separate schedules. These communities included tribe-based peoples listed under a distinct schedule as “scheduled tribes” or (STs). In his paper *The Global Indigenous Peoples Movement: It's Stirring in India*, Virginius Xaxa examines the alignment of the indigenous people's movement in India with the global indigenous struggle and its nascent consequences. The paper critically evaluates the politics of terminology and identification in a country where the constitutional and legal regime recognizes its native peoples as STs, but no one as

* Virginius Xaxa, *The Global Indigenous Peoples Movement: It's Stirring in India*, 2 J. L. PROP. & SOC'Y 141 (2016), <http://www.alps.syr.edu/journal/2016/11/JLPS-2016-11-Xaxa.pdf>.

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¹ Ganguli, B.N., Dadabhai Naoroji and the Mechanism of External Drain, *Indian Economic & Social History Review*, Vol. 2(2), pp. 85-102 (1965).

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<http://www.alps.syr.edu/journal/2016/11/JLPS-2016-11-Vikas.pdf>

indigenous. Professor Xaxa delineates constitutional provisions that protect and promote the rights and interests of STs, especially by way of property rights and establishing autonomy in areas primarily inhabited by them. Thereafter, he contradistinguishes these constitutional provisions with these groups' circumstances of abject poverty. Despite the enactment of provisions guaranteeing autonomy and the onset of industrialization, STs continue to battle institutional barriers to progress with roots at least as deep as the country's colonial history.

The Indian government and many social scientists² deem the identification of indigenous peoples as difficult and divisive on grounds of, *inter alia*, varying timelines of many historical migrations.³ Professor Xaxa engages with both the politics and geography of indigeneity, which is important in contemporary India where contested narratives of history by different social groups often eclipse the discourse on nativism. Professor Xaxa situates indigenous people's material condition in their historical oppression, dual colonialism from both Indians and the British, and continued persecution by dominant social groups. In sum, he analyzes the Indian state's discomfort with the concept of STs as indigenous people, and their identification of STs as a politico-administrative categorization, instead of an ethno-social one. My response to his work considers terminology, geography, and globalization in relation to the Indian constitution, and the import of its provisions on ST wellbeing.

² Karlsson, Bengt G., Anthropology and the 'Indigenous Slot', Claims to and Debates about Indigenous Peoples' Status in India, *Critique of Anthropology*, Vol. 23(4), pp. 403-423, (2003).

³ Erni, Christian, Ed., Country profile: India, in *The Concept of Indigenous Peoples in Asia. A Resource Book*, International Work Group for Indigenous Affairs, IWGIA Document No. 123, Copenhagen, Chiang Mai, pp. 367-376, (2008).

Professor Xaxa's consideration of the terms "ST", "Adivasi" and "indigenous" bolsters our understanding of these terms' residual impact on the legal framework, and points to the need for a nuanced lexicon of marginalized groups in India. In Northeastern India's politics, ST credentials are important where many indigenous tribes have ST status but Adivasi communities do not.⁴ Although Professor Xaxa uses the term indigenous people and Adivasi interchangeably, the latter refers only to certain ST communities residing in India's central belt (where 85% of all STs reside).⁵ Southern, Northern, or Northeastern Indian tribes do not commonly use this term. Professor Xaxa's liberal usage of the term Adivasi, and hence its importance in his analysis, is rooted in its historical etymology. The word Adivasi is a neologism coined in the 1930s in the "tribal" Chotanagpur region of Bihar.⁶ Social worker A.V. Thakkar subsequently popularized it in the 1940s and the term entered into common parlance in states like

⁴ Purkayastha, Nabarun, Displacement, Resettlement and Rehabilitation: A Study on Oraon tribe in Barak Valley of Assam, *International Journal of Social Science and Humanities Research*, Vol. 3(2), pp: (503-509), (2015); Fernandes, Walter, Assam Adivasis: Identity Issues and Liberation, *Vidyajyoti Journal of Theological Reflection*, Vol. 68(2), pp. 110-121, (2003).

⁵ Xaxa, Virginius, The Concept of Indigenous Peoples in India, in Erni, Christian, Ed., *The Concept of Indigenous Peoples in Asia. A Resource Book*, International Work Group for Indigenous Affairs, IWGIA Document No. 123, Copenhagen, Chiang Mai, pp. 223-240, (2008).

⁶ The Adivasi Mahasabha reportedly used the word Adivasi first in 1936. In Bosu Mullick, S., Introduction in Munda, Ram Dayal, Bosu Mullik, S., Eds., *The Jharkhand Movement. Indigenous People's Struggle for Autonomy in India*, International Work Group for Indigenous Affairs, IWGIA Document No. 108, Copenhagen, pp. iv-xvii, (2003).

Gujarat after independence.⁷ The Sanskrit derived term means “original inhabitant,”⁸ and was the first designation of a collective autochthonous character to tribes of the Chotanagpur plateau.⁹ Using the term Adivasi is a strong assertion of the distinct identity of indigenous people within India’s geopolitics. It was also a reaction against the colonial usage of the term “tribe” and its connotations of an archaic lifestyle.¹⁰

Unfortunately, the term has not only survived but also thrived in post-colonial India.¹¹ The current list of STs prepared by the Indian government is an expanded version of the “primitive tribes” or “backward tribes” identified by the British; even the criteria remain steeped in similar colonial mythologies.¹² According to the Ministry of Tribal Affairs, although the constitution does not lay down a mechanism of identifying STs, the “established criteria” for listing a community as ST include, “indications of primitive traits,” “shyness of contact” and “backwardness.”¹³ After many revisions of ST lists

⁷ Hardiman, David, *The Coming of the Devi, Adivasi Assertion in Western India*, Oxford University Press, Delhi, New York, pp. 248, (1987).

⁸ Berreman, Gerald D., *Race, Caste, and Other Invidious Distinctions in Social Stratification*, *Race*, Vol. 13(4), pp. 385–414, (1972).

⁹ Shankar, Uday, *Adivasis in Contemporary India: Engagements with the State, Non-State Actors, and the Capitalist Economy*, in Jacobsen, Knut A., Ed., *Routledge Handbook of Contemporary India*, Routledge London and New York, pp. 297–310, (2015).

¹⁰ British colonialists viewed Adivasis as primitive remnants of early humans, practicing hunting-gathering and/or rudimentary agriculture in isolation in the hills and away from ‘civilized India.’ Hardiman, *supra* note 7.

¹¹ Shankar, *supra* note 9.

¹² Constitution (Scheduled Tribes) Order, 1950, as amended. Ministry of Law and Justice, Government of India, Ministry of Law, Notification. No. S.R.O. 510, dated September 6, 1950, in the Gazette of India, Extraordinary, Part II, Section 3, pp. 597, Official website of Ministry of Law and Justice, Government of India. Accessed on June 14, 2016, at <http://lawmin.nic.in/ld/subord/rule9a.htm>.

¹³ Scheduled Tribes – Introduction, Official Website of the Ministry of Tribal Affairs, Government of India, accessed on September 5, 2016, at

based on recommendations of expert panels,¹⁴ there are 744 STs across 22 states.¹⁵

For Professor Xaxa, ST claims to indigeneity rest primarily on the continuity of distinct socio-cultural institutions, which is a key consideration in identifying indigenous groups.¹⁶ Beyond merely raising the administrative complications of identifying ST communities, his paper advances the fundamental issue of the rights of indigenous people to exercise self-identification. International action on indigenous rights has strengthened self-identification by indigenous peoples.¹⁷ This includes resolutions passed by the United Nations (UN) and the International Labour Organization (ILO), which Professor Xaxa notes are important milestones. Since the term Adivasi does not encompass all the STs in India, using the term indigenous peoples is relevant as a collective locution outside the ST paradigm. With its popular use in international fora, the term indigenous has helped coalesce diverse peoples and their multifarious identities into a more

<http://tribal.nic.in/Content/DefinitionpRprofiles.aspx>; Definition, Official Website of the Ministry of Tribal Affairs, Government of India, accessed on September 5, 2016, at <http://tribal.nic.in/Content/DefinitionpRprofiles.aspx>.

¹⁴ Report of the Backward Classes Commission (Kalelkar), 1955, in *Journal of Indian School of Political Economy*, Vol. 3(2), pp. 337-347, (1991), accessed on September 5, 2016, at <http://www.ispepune.org.in/PDF%20ISSUE/1991/JISPE2/report-backward-classes-comission.pdf>. Many communities are listed separately by different states, inflating the actual number of tribes within the country.

¹⁵ The Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes, 1965, Department of Social Security, Government of India, accessed on September 5, 2016 at <http://hlc.tribal.nic.in/WriteReadData/userfiles/file/Lokur%20Committee%20Report.pdf>.

¹⁶ Xaxa, *supra* note 5.

¹⁷ Canessa, Andrew, Who is Indigenous? Self-identification, Indigeneity and Claims to Justice in contemporary Bolivia, *Urban Anthropology and Studies of Cultural Systems and World Economic Development, Power, Indigeneity, Economic Development and Politics in Contemporary Bolivia*, Vol. 36(3), pp. 195-237, (2007).

unified, if internally varied socio-political entity in India. Beyond semantics, this assertion is a result of Adivasi subjectivity, based on ideas of self-representation molded by the international movement.¹⁸ Adivasi/ST assertions also impact the politics of domicile in modern India, where non-indigenous groups have recently fostered “sons of the soil” movements.¹⁹ Such sub-nationalistic movements²⁰ are common across Asia,²¹ many perpetuated by demographically dominant social groups to claim privilege of “locals” over “migrants”²² especially based on linguistic chauvinism.

Although Adivasis had historical engagements with caste-based societies, they began to integrate with the larger economy only after the advent of the British and the construction of extensive road and infrastructure networks in the hill tracts.²³ The British introduced new land tenure systems and landed intermediaries in the nineteenth century, increasing exploitation of Adivasis and provoking revolts that led to the enactment of protectionist provisions that prevent Adivasi land alienation.²⁴ Professor Xaxa’s paper identifies the

¹⁸ Dasgupta, Sangeeta, Rycroft, Daniel J., *Indigenous Pasts and the Politics of Belonging*, in Ed. Dasgupta, Sangeeta, Rycroft, Daniel J., *The Politics of Belonging in India: Becoming Adivasi*, Routledge London and New York, pp. 1–14, (2011).

¹⁹ Weiner, Myron, *Sons of the Soil: Migration and Ethnic Conflict in India*, Princeton University Press, Princeton N.J., pp. 404, (1978).

²⁰ Fadia, Babulal, *State politics in India*, Volume 1, Radiant Publishers, New Delhi, pp. 549, (1984).

²¹ Fearon, James D., Laitin, David D., *Sons of the Soil, Migrants, and Civil War*, *World Development* Vol. 39(2), pp. 199–211, (2011).

²² Gaikwad, Rahi, *North Indians attacked in Mumbai*, *The Hindu*, October 20, 2008. Accessed on February 18, 2016 at

<http://www.thehindu.com/todays-paper/north-indians-attacked-inmumbai/article1360243.ece>

²³ Arnold, David, *Crime and Crime Control in Madras 1858-1947*, in Yang, Anand A., Ed., *Crime and Criminality in British India*, University of Arizona Press, Tucson, pp. 62–88, (1985).

²⁴ Thapar, Romila, Siddiqi, H.M., ‘Chotanagpur: the Pre-Colonial and Colonial Situation’ in Munda, Ram Dayal, Bosu Mullick, S., (Eds.), *The Jharkhand Movement*.

roots of many of the modern legislative provisions in these initial actions. One of the key legislations was the Scheduled Districts Act, 1874 (**SDA**), which identified scheduled districts where the Adivasi population was high and restricted sale of Adivasi land in these areas. The 1919 Government of India Act and subsequent legislations²⁵ identified tribal areas as “backward tracts” that were classified as either partially or wholly “excluded” regions (excluded from the British legal system). While the wholly excluded areas were primarily the tribal inhabited regions in present day Northeastern India, the central tribal belt was identified as partially excluded areas. The wholly and partially excluded areas found their way, *mutatis mutandis*, into the new constitution as tribal areas.²⁶ While the wholly excluded areas came to be identified as regions under Schedule VI, the partially excluded areas in 9 states of Central India came under Schedule V. Justice M. Hidayatullah called these provisions “*constitutions within a constitution*” or a “*miniature constitution*” that exists within the Indian constitution and yet functions outside it as well.²⁷

Geographies of Self-Governance:

Professor Xaxa’s paper explores legislative regimes as one of the ways in which the state communicates and mediates its relationship with its subjects. As Professor Xaxa notes, the power to determine the ST status lies with state governments, complicating the question

Indigenous People’s Struggle for Autonomy in India’, Copenhagen: International Work Group for Indigenous Affairs, IWGIA Document No. 108, pp. 31–72 (2003).

²⁵ [S.92 (1), (2) & (3)], Government of India Act, 1935.

²⁶ A separate committee recommended that the central government, and not the state governments, administer these areas. However, the report was not referred to due to bureaucratic errors. Hidayatullah, M., *The Fifth and Sixth Schedules to the Constitution of India*, Ashok Publishing House, New Delhi, pp. 92 (1979).

²⁷ Hidayatullah, *supra* note 26.

of indigeneity because of shifting geographical homes,²⁸ local politics and the reality of human migrations. Courts have ruled that state and residency²⁹ are key factors that decide the recognition of ST identity.³⁰ Since ST categorization entitles communities to affirmative action in jobs and education, electoral compulsions do influence a state's ST list. The indeterminate status of migrant STs highlights the contemporary tensions between the tribes on land rights and resource sharing, as well as vulnerabilities of migrant STs. ST credentials are important in Northeastern India's politics, which is home to many indigenous tribes but where Adivasi communities are not recognized as STs.³¹ For example, "detrribalized" Adivasis are Other Backward Class instead of ST in Assam,³² where there is strong opposition to the idea of granting them tribal status.³³ Indigenous character in these contexts is not only (or even) a social construct, an immutable identity or knowledge bequeathed by ancestors; it is a coveted political categorization determined by temporal placement which is transformable by migration.³⁴ This migration-inflected set of identities is especially significant in a globalized India, where labor and people are increasingly mobile. ST identity becomes not just

²⁸ Xaxa, *supra* note 5.

²⁹ In this case, the Supreme Court held that in order for a person to qualify as an ST in a particular state, such person must also be 'ordinarily resident' in the state, as defined by Representation of the People Act, 1950.

³⁰ *Action Committee on Issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another v. Union of India and Another*, (1994) 5 SCC 244.

³¹ Purkayastha, *supra* note 4; Fernandes, *supra* note 4.

³² Purkayastha, *supra* note 4.

³³ Kalelkar Report, *supra* note 14.

³⁴ The British brought Adivasis to Assam to work on tea gardens. However, both the British and the Indian governments have failed to protect their rights and Adivasis continue to be marginalized and largely landless.

an act of political assertion, but also negotiation of identities and belonging.

Professor Xaxa goes on to discuss the emergence of recent legislative and judicial actions, which he recognizes as victories of ST activism. He places particular importance on the enactment of the Panchayats (Extension to Scheduled Areas) Act, 1996 (**PESA**) and the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (**FRA**), viewing them as fair decentralization, distinct from prescriptive democratization (and economic liberalization) promoted by western nations.³⁵ Professor Xaxa places these national moments of change within the global indigenous movement and credits it as having constituted some of the ideals. For example, PESA came to the rescue of the Dongria Kondh tribe, a “Particularly Vulnerable Tribal Group”³⁶ who opposed mining on their sacred lands.³⁷ Global organizations aligned themselves with such local resistance and amplified its voice;³⁸ the Supreme Court ultimately held that the village councils should determine the fate of the mining project.³⁹

³⁵ While PESA’s enactment reinstated traditional governance methods of different ST communities at the village level in scheduled areas, FRA seeks to redress historical injustices against STs by way of alienation from forest rights. Both PESA and FRA attempt to devolve administrative powers right at the village level, making a bottom up self-governance an actuality.

³⁶ Name of the Particularly Vulnerable Tribal Groups (PTGs) (Earlier Called as Primitive Tribal Groups) - State/ UT Wise, Ministry of Tribal Affairs, Government of India, Accessed on May 11, 2016 at <http://tribal.nic.in/WriteReadData/CMS/Documents/201306030204039113751StatewisePTGsList.pdf>.

³⁷ *Orissa Mining Corporation Ltd. v. Ministry of Environment and Forest and Ors.*, (2013) 6 SCC 476.

³⁸ Tribes and Campaigns, Survival International, accessed on September 5, 2016 at <http://www.survivalinternational.org/tribes/dongria>.

³⁹ Excerpts from the final paragraphs of the judgment read:

However, FRA and PESA are not without problems. For one, the enactment and execution of FRA seem to be two different phenomena. Its enactment enthused many STs including Professor Xaxa, who hoped it could delineate new relationships among the Indian state, STs and those designated as “other forest dwellers.”⁴⁰ However, claim settlements under FRA have been slow,⁴¹ because of structural barriers,⁴² and law and order issues.⁴³ Reports suggest FRA might lose its legislative teeth with the dilution of provisions to

Section 4(d) of the Act says that every Gram Sabha shall be competent to safeguard and preserve the traditions, customs of the people, their cultural identity, community resources and community mode of dispute resolution. **Therefore, Grama Sabha functioning under the Forest Rights Act read with Section 4(d) of PESA Act has an obligation to safeguard and preserve the traditions and customs of the STs and other forest dwellers,** their cultural identity, community resources etc... We are, therefore, of the view that the question whether STs and other TFDs, like Dongaria Kondh, Kutia Kandha and Ors. have got any religious rights i.e. rights of worship over the Niyamgiri hills, known as Nimagiri, near Hundaljali, which is the hill top known as Niyam-Raja, have to be considered by the Gram Sabha. **Gram Sabha can also examine whether the proposed mining area Niyama Danger, 10 km away from the peak, would in any way affect the abode of Niyam-Raja.** . . . We find that this aspect of the matter has not been placed before the Gram Sabha for their active consideration.” (emphasis mine)

⁴⁰ Aggarwal, Ashish, Implementation of Forest Rights Act, changing forest landscape, and “politics of REDD+” in India, *Journal of Resources, Energy, and Development*, Vol. 8(2), pp. 131-148 (2011).

⁴¹ By May 2015, the government had received 4.4 million claims, but had settled only 1.7 million that resulted in titles. For more, see Oxfam India Policy Brief, No. 15, November 2015, available at

<https://www.oxfamindia.org/sites/default/files/PB-implementing-forest-rights-act-lack-of-political-will-261115-en.pdf>.

⁴² TNN, ‘Implementation of Forest Rights Act slow and tardy’, *Times of India*, November 13, 2013, accessed on September 5, 2016 at

<http://timesofindia.indiatimes.com/city/pune/Implementation-of-Forest-Rights-Act-slow-and-tardy/articleshow/25661034.cms>.

⁴³ Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 30th September, 2013], Ministry of Tribal Affairs, Government of India.

facilitate industrial growth even before its full implementation.⁴⁴ Delineating the legislative process and critically engaging with their inconsistent implementation, Professor Xaxa views these acts as an imperfect synthesis where legal provisions are products of dialectical processes working at the local, national and international scale.

Professor Xaxa also delves into ST communities who have legal customary ownership of natural resource rich areas.⁴⁵ Extraction of these resources in the name of economic development is a key reason for undermining ST land rights.⁴⁶ Professor Xaxa offers a valuable opening to investigate the judicial interpretation of the laws. He considers the landmark case of *Samatha v. State of Andhra Pradesh*⁴⁷, where the state government had leased tribal lands in Schedule V areas to private mining corporations. The Supreme Court declared

⁴⁴ Chauhan, Chetan, Forest Rights Act diluted for projects, Hindustan Times, October 29, 2014, accessed on September 5, 2016, at <http://www.hindustantimes.com/india/forest-rights-act-diluted-for-projects/story-c13LtPEr7XXfMq4jpf1BQI.html>.

⁴⁵ In *State of Andhra Pradesh v. Duvvuru Balarami Reddy & Ors.* (1963) 1 SCR 173, the Supreme Court of India held that the Constitution recognizes that mineral wealth obtained within India did not automatically vest with the State. Under Articles 294 and 297 of the Constitution, proprietary rights on minerals can vest with private landowners. In *Threesiana Jacob & Ors. v. Geologist, Dept of Mining & Geology & Ors.* (2013) 7 SCR 863, the Supreme Court recognized the ownership of the appellant over the minerals that were excavated from land owned by her, and also maintained that she did not owe the State any royalties from such excavation. It further held that sub-soil/mineral wealth followed the ownership of land, unless 'valid' process for land alienation is followed. Note that the State retains the right to alienate any citizen from its land. Under the original Constitution, citizens were granted the fundamental right to acquire, hold or dispose property under Articles 19 and 31. However, pursuant to the forty-fourth amendment of the Constitution in 1978, the right to property was deleted from the list of fundamental rights and was replaced with Article 300-A which provided that "no person shall be deprived of his property save by authority of law."

⁴⁶ Bhushan, Chandra, Hazra, Monali Zeya, Banerjee, Souparno, Rich Lands, Poor People: Is 'Sustainable' Mining Possible?, State of India's Environment - Sixth Citizens' Report, Center for Science and Environment, Delhi, pp. 360 (2008).

⁴⁷ *Samatha v. State of Andhra Pradesh* 1997 8 SCC 191.

that all lands leased by the government or its agencies to private mining corporations in the scheduled areas as null and void.⁴⁸ However, the Court made a key exception of permitting transfer of scheduled land to state owned corporations. Despite the body of judicial pronouncements,⁴⁹ reports of secret machinations of governments to limit ST land rights abound.⁵⁰ Some states gave Governors extended rights to permit transfer of ST land to non-STs.⁵¹ To work around the ruling, and since *Samatha* allowed transfer of land to state instrumentalities, several state governments gave mining leases to state owned mining corporations that subsequently engaged with private corporations for the actual extraction of minerals. Subsequent judgments by the Supreme Court have also limited the scope of the *Samatha* judgment. In *Balco Employees Union v. Union of India and Ors.*,⁵² the state government challenged the central government's decision to divest 51% shares to a private company that operated in scheduled areas. The Supreme Court held that *Samatha* was not applicable because provisions of the Madhya Pradesh Land Revenue Code (1959) are not in *pari materia* with the provisions of the Andhra Pradesh regulations. Structural violence perpetrated by state institutions enables

⁴⁸ Noting the importance of land in the lives of predominantly agricultural ST communities, the Court held that "Land is their most important natural and valuable asset and imperishable endowment from which the tribals derive their sustenance, social status, economic and social equality, permanent place of the abode and work and living. It is a security and source for economic empowerment. The tribes have great emotional attachment to their lands."

⁴⁹ *Raoji and Others v. State of Maharashtra* AIR 1986 Bom 262.

⁵⁰ The Fifth Schedule of the Constitution and the *Samatha* Judgement, accessed on May 21, 2016 at

http://www.samataindia.org.in/documents/SAMATA_EDIT1.PDF.

⁵¹ Malhotra, Sonum Gayatri, Right place, wrong arrangement, *The Hindu*, June 18, 2013, accessed on September 5, 2016, at <http://www.thehindu.com/opinion/op-ed/right-place-wrong-arrangement/article4823988.ece>.

⁵² Transferred case (c) No 8 of 2001 with T.C. (c) Nos. 9 & 10 of 2001 and W.P. (c) No 194 Of 2001, Delivered 10 Dec, 2001.

continued alienation today; this explains why many indigenous peoples do not seek reformation of colonial structures, but their dismantling and replacement with autonomy and self-governance.⁵³ On the other hand, many ST groups are tenaciously trying to protect human rights through constitutional jurisprudence, operating within the framework of the Indian judiciary to actualize the historical goal of the constitution to bring about equity in an unequal society.⁵⁴

Beyond legislative history, Professor Xaxa focuses on the disproportionate impact of “developmental projects” on STs in terms of their health, education, and economic status. He refers to some key statistics, sourced from the unpublished Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India chaired by Professor Xaxa.⁵⁵ Although formally submitted to the Government in May 2014, the formal announcement of its findings is yet to happen,⁵⁶ and rumors of inter-departmental discussions abound regarding the Report’s indictment

⁵³ Saxena, K.B., *The Naxalite movement and the crisis of governance: Reform measures for regaining people’s trust*, *Social Change*, Vol. 39(4), pp. 475–503, (2009). However, there have been many instances where far-left ‘Naxalite’ groups fighting the Indian state have committed human rights violations and mass murders. For more, please see: Kannabiran, Kalpana, Volga, Kannabiran, Vasanth, *Peace and Irresponsibility*, *Economic and Political Weekly*, Vol. 40(13), pp. 1310–1312, (2005).

⁵⁴ Kannabiran, Kalpana, *Tools of Justice: Non-Discrimination and the Indian Constitution*, Routledge India, Delhi, pp. 520 (2012).

⁵⁵ Xaxa, Virginius, et al., *Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India*, Ministry of Tribal Affairs, Government of India, pp. 431, (2014).

⁵⁶ Mazoomdaar, Jay, *UPA panel set tough norms for tribal land, NDA sits on report*, *Indian Express*, (November 9, 2014), accessed at <http://indianexpress.com/article/india/india-others/upa-panel-set-tough-norms-for-tribal-land-nda-sits-on-report/>.

of the Indian state.⁵⁷ The data on displacement, health, and education that Professor Xaxa reproduces suggest an even darker dialectic than that of legislative empowerment followed by economic and social dilution of that power. The former Indian Prime Minister Nehru once addressed people displaced due to the construction of a dam saying, "If you are to suffer, you should suffer in the interest of the country."⁵⁸ STs, despite being only 8.6% of India's population, form 47% of its internally displaced population. The displacement of STs and extraction of resources exposes a hollow ring to such injunctions, straining the nation state's ability to appeal to STs as its full members.

Professor Xaxa's paper exposes the Indian state's protection of ST rights on the books as *de jure* containers of dynamic ideals that died soon after independence. Nevertheless, he also leaves us with a tantalizing hope of change in the wake of new local-level actions, catalyzed in part by international ideological awakenings of indigenous peoples across many contexts. Like Professor Xaxa, I hope these exchanges of ideas and building of networks among indigenous groups will lead to greater *de facto* self-governance of indigenous groups. As with the enactment of recent laws in India, one can only hope that the interaction of lived practices, traditional norms, newly forged alliances and persistent politically powerful actions by indigenous peoples will redefine legal frameworks, correcting the balance of power.

⁵⁷ PTI, Decision yet to be taken on high-level panel report on tribal welfare, The Economic Times, (Jun 28, 2015), accessed at http://articles.economictimes.indiatimes.com/2015-06-28/news/63907446_1_scheduled-tribes-tac-tribal-affairs-ministry.

⁵⁸ Duflo, Esther, Pande, Rohini, Dams, The Quarterly Journal of Economics, Vol. 122(2), pp. 601-646, (2007).