

Autonomous District Council: The Constituent Assembly Debate

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Abstract: This paper focuses on the Constituent Assembly debate in India regarding the creation of Regional and District Autonomous Council in the excluded areas of North East India. The basic reason behind focusing on such debate is to bring to light the kind of ideas and principles that guided the creation of such institutions in post- independence India. It is the innovation of such autonomous institutions that help the Indian state to maintain and endure unity in diversity while not denying its integrity.

Keywords: Autonomous District Council, Integration, assimilation, Constituent Assembly debate.

Evolution Of The Idea Of Autonomous District Council

The idea of an autonomous district council and an autonomous region was an innovation of independent India though its genesis lies in the British administration of India. Once the British East India Company got the opportunity to enter North East India after the treaty of Yandaboo, they were exposed to the natural resources like coal, cotton, etc. available in this area. They started governing the area through 'inner line permits' system as well as 'the Scheduled Districts Act' of 1874 which in a way implies governance in isolation. Various factors worked together behind the creation of such arrangement. First of all, it was to protect the tribal land, primitive life and distinct culture of the tribe that the Britishers restricted the entry of outsiders, various business activities and prohibit outsiders' settlement in the area. Secondly, the Britishers felt it necessary to keep the tribal in isolation from the outside forces because of the prevalence of certain practices like 'head hunting (Hmingthazuala, 1996, p. 306) among some of the tribal communities. Third and the most important reason although not proclaimed was the need of the

Britishers to fulfill their business interest. Such arrangements ultimately find inclusion in the Government of India Act of 1935 in the expression 'excluded' and 'partially excluded' areas act. As the Government of India Act of 1935 plays the most important role in the making of post-independent India's constitution, so it is natural that the kind of arrangement that Britishers designed in order to govern the tribal people of North East India worked as a legacy in the minds of the constitution makers.

Independent India And The Biggest Challenge

Once India attained independence, the biggest challenge that emerged before the newly born country was how to consolidate and integrate the vast country into a single governing unit. Consequently, there were large debate and discussions that underwent in the Constituent Assembly. Various committees were formed to investigate on the existing scenario that came up with different inputs that in turn were widely debated in the floor of the constituent assembly. In integrating the north- eastern region, the provisional Government of India appointed a sub-committee, the North East Frontier (Assam) Tribal and Excluded Areas Sub- Committee chaired by the Assamese political leader Gopinath Bordoloi (Pyakure, 2013). Later Bordoloi became the Chief Minister of Assam. Other full members of the Committee were: Shri J. J. M. Nichols Roy, Shri Rup Nath Brahma, Shri A. V. Thakkar and Shri Mayang Nokcha, who was later replaced by Shri Aliba Imti (Hansaria, 2011, p. 8). The sub- committee well known as Gopinath Bordoloi committee wanted to settle the ambition of the hill people for political autonomy with the Assam Government's effort to incorporate them with the majority community. With this in mind, the committee undertook extensive tour and interviews throughout the North Eastern region.

Constitutional Debate On Integrating The Excluded And Partially Excluded Areas

The prevailing mood at the eve of India's independence was that while it was necessary for inclusion of all the people and region of the country into a single representative whole, but it cannot be achieved by sudden breakdown from the already inherited ideas and administrative institutional set up among the tribal community. The focus was not on imposition but on evolution that may take longer time. The Government of India appointed sub- committee on North East Frontier (Assam) Tribal and Excluded Areas under the chairmanship of Assamese political leader Gopinath Bordoloi felt that the granting of substantial autonomy arrangements at

the district level will also work as a compromise on the part of those who demanded complete independence from the country. The committee was of the view that by allowing the tribal people to rule themselves by the district level autonomous institutions with sufficient financial autonomy will provide protection from outside interference. This in turn will create a sense of security in the minds of the tribal population that in turn help them to assimilate with the integrated whole. Given these ideas and fact, Bordoloi Committee formulates detailed arrangement of Autonomous District Council in the formerly excluded areas of Assam. The committee submitted its report for debate on 5th of September 1949. The debate in the Constituent Assembly can be interpreted as the reflection of an earlier policy debate that dated back as 1920 between the two central ideas: integration and assimilation of tribal. G. S. Ghurye advocated assimilation of all individuals into a single political identity in a single representative body. On the other hand, Verrier Elwin propounded for integration of distinct tribal communities with the center by providing political and administrative autonomy. (Stuligross, 1999)

Ghurye rejected the then prevailing assumptions that tribal communities are indigenous or that they are the people that come and settled in their respective regions before the Hindus. He also argued against the concept of distinctiveness of tribal culture. He was of the view that there was no distinct and clear - cut division between the culture, languages, practices and norms followed by tribal on one hand and non- tribal people on the other hand. People from the tribal communities seem to assimilate with the non- tribal people not only in terms of individual level but at the community level also. Lower caste Hindus seems to integrate with the tribal communities almost in all aspects. Similarly socially and economically mobile tribal group assimilate with the non- tribal group without any hesitation. By arguing in this line, Ghurye refutes both the prevailing assumption that tribal communities exist prior to the non- tribal as well as the uniqueness of tribal culture. On the basis of these arguments, Ghurye argues that the Indian state should not give any special status to a particular community. Government ought to govern through a common set of political institutions that will provide a similar set of rights to all groups irrespective of caste, religion, ethnicity, etc. While not avoiding the existence of cultural distinctiveness, he was of the view that every possible institutional incentive should be taken to ensure the assimilation of such distinctiveness with the mainstream. Such assimilation will lead to better integrated India as well as the development of a better culture.

Verrier Elwin is known as the official spokesperson of Jawaharlal Nehru's tribal policy. Elwin propounded integrationist approach. More than Ghurye, he preferred assimilation in the level of social power but not at the institutional level. Assimilation in institutional level will result in the demolition of tribal institutions. Moreover, Elwin was of the opinion that women enjoy more freedom in tribal society than in Hindu and Muslim society. Also, he propounded that justice is more transparent, effective and honest when transmit by the community institutions than others. Given the existence of these facts, Elwin argues that distinct tribal institutions are worthy of getting preservation and legal recognition by the Indian state. However, preservation of their institutions does not mean that tribal people will be totally disconnected from the rest of the society. Such isolation and separation from the rest of the society according to Stuligross will lead to 'museumification' (Stuligross, 1999, p. 501) of tribal society that in turn will stifle the development of the tribal society. On the other hand, he called for the integration of tribals as communities whereby they will take pride in their old institutions as well as retain their faith in the state resulting in the development of the both.

In the light of the two different perspectives, it appears that if we value multiculturalism, we may refuse to accept Ghurye's assertion in which he does not see any problem in the assimilation of tribal communities with the non- tribal communities. While there is no doubt that the tribal communities do assimilate with the non- tribal group. But the problem is that in Ghurye's formulation, the assimilation of tribal communities may not occur in equal level. It may be the mere instrumental value like the prospect of getting a better education, better job opportunity for which the tribal communities submerge themselves with the non- tribal communities. But from such assimilation, the tribal people may disadvantage greatly in the sense that their present and the next generation may not able to carry forward their distinctive cultures. Thus, it will work as a threat to the very existence of the tribal culture. In the process, we will lose a distinct value system that would have enriched our society by widening space for alternate thinking and a more tolerant society.

The ideas from these above two perspectives became apparent in the debates in the Constituent Assembly. Three shades of opinion dominated the debate. One shed of opinion was put forward by leaders like Shri Brajeswar Prasad, who articulated that governance of such areas that is excluded areas should not be entrusted with the authority of provincial Government or the Governor. In other words given the complex situation of the area in terms of its geographical

contiguity to many foreign nations as well as growing conflict among different communities like Ahom, Muslim and Bengalis, the authority should be bestowed upon the centre. The administration of the area had to come under central jurisdiction under the authority of the President. Prasad was of the view that it is the country as a whole that is more important than provincial autonomy. In asserting all these arguments, he was guided by European context. For him, the granting of self- determination to the tribal people will lead to vivisection of the country as already started happening in Europe. Shri Prasad has tabled amendments to various provisions of the draft constitution in this matter in the light of the above thinking, but his views were not taken into consideration by the Constituent Assembly.

Another shed of opinions was lead by two Honorable Members from Assam, Kuladhar Chaliha and Rohini Kumar Chaudhuri. They tried to enhance the jurisdiction of the Provincial Governments and State Legislature by giving greater voice to the respective authority in dealing with the tribals. They were of the opinion that giving greater autonomy to the tribals will lead the country towards creation of 'tribalstan' just as Pakistan has been created (Hansaria, 2011, p. 26). They were of the view that keeping the tribals and non- tribal in separate existence rather than in assimilation will lead to a situation where the tribal will no more join the Indian state in future. Rather they will like to join foreign country like Burma (today's Myanmar). They were very critical of the provision that the implementation of an Act of Parliament will require first of all the consent from the tribals.

In interpreting the above two opinions, it appears that a certain kind of extremism underlies in part of both the opinions. In the former case, an extreme situation of centralized authority is demanded while, in the second case, an extreme situation of provincial autonomy in the level of the state is demanded. What is common in both the cases is that tribal communities have to assimilate in every aspect with the majority communities. The idea of protecting and preserving distinctness of tribal communities is totally neglected in the fear that it would result in the creation of tribalstan, or they would join a foreign country. But these opinions were not found to be receptive on the floor of the Constituent Assembly. Such ideas could have been accommodated but at a great cost. The acceptance of such ideas would have lead India in the direction of authoritarianism by crushing the deep sense of diversity that characterize our social existence from time immemorial. There will be undermining of democracy where diversity is protected and valued.

The views of the then Premier of Assam, Gopinath Bordoloi that represent the third shed of opinion was given more weight in the Constituent Assembly, not merely because of the fact that he was the Chairman of the Sub- Committee, but Bordoloi was known to be the great sympathizer of the tribal people as Shri Nichols Roy stated. It was Bordoloi who undertook extensive field surveys and closely examined the context of the tribal people, engaged with them to the extent possible. He was also a much - respected person among the tribals. Bordoloi explained the background in which the Constituent Assembly had prepared the draft. He referred to the problem of inaccessibility of certain regions as nobody from the plain area could visit those places in order to interact with them. Since the period of British colonialism the excluded areas were developing a sense of separation and isolation. Some of these excluded areas were war zones. And the Britishers promised them independence once the war got to the end. Given this practical taste of separate existence, it was not desirable to assimilate these people through forceful means, by the deployment of military force or Assam rifles. Rather it was more desirable to win their willing cooperation by integrating them in a way that respects their traditional and distinct customary set up. Bordoloi also brings to light the existence of distinct village administration in some of these excluded areas that were so efficient and good in imparting justice among the tribal people. So it was not desirable to destroy these institutions.

A.V. Thakkar, a member of the Bordoloi committee mentioned that village administration was the only aspect that got support from both the Committee as well as the tribal people. Thakkar admits that he himself have never heard of the term District Council earlier but at the same time convinced by the arguments from the fellow members that it was the only possible way. However he was not in favour of giving a permanency to such arrangement. To quote Thakkar “all constitutions are changeable, all laws are changeable, and we can change the law, change the constitution, when you think the time is ripe for it.” (“Constituent Assembly Debate Relating to the 6th Schedule”)

Members like Nichols Roy were off the opinion that the measure of self- government is the most efficient means for integrating the excluded areas. Such arrangement will give an opportunity to tribal people to develop in their way and thereby satisfy them. Otherwise, any feeling of disadvantage among the tribal people will lead to the greater problem before the country because of the strategic importance of the frontier area where these tribal has lived. Thus, India's security question is also associated with it. Shri Jaipal Singh approached the issue

with the help of two approaches that are 'power solution' and 'knowledge solution' (Hansaria, 2011). The following of the first approach will lead to further disintegration of India while the following of later will help Indian state to win the confidence and trust of the tribal people. Such confidence and trust will work in the longer time towards the mutual development of both the tribal people as well the country as a whole within a multicultural, federal and democratic setup. The final touch to the debate came from the legal luminary, the father of Indian Constitution Dr. B.R. Ambedkar. Ambedkar opined that tribals from the excluded areas of North East were somewhat different from tribal in the rest of India. The tribal from the rest of India have more or less assimilate with the non- tribals communities. But the tribal communities from North- East India still maintained their separateness in terms of their practice of inheritance, marriage system, etc. He felt that the situation of the tribals from these areas was similar to the position of Red Indians of United States of America, who regarded themselves as a republic as well as a self- governing and distinct people. He agreed that the Regional and the District Councils were created on the lines adopted by United States for the purpose of Red Indian.

In the constituent assembly debate, it is the third shade of opinion that received wider acceptance and vitality. Finally, the administration of the tribal communities of North East India was ingrained in the foundational law of the country in the Sixth Schedule of the Constitution containing articles 244 (2) and 275 (1). It created autonomous districts and autonomous regions in governing the tribal communities in the excluded areas of North East India with the devolution of significant autonomy in the executive, legislative and judicial spheres (Bakshi, "The Constitution of India", 2011). The constituent assembly debate finally took a midway approach from the already mentioned two extreme opinions. It became apparent in the provision where Governor will act as the agent of the center. Government has the authority to include, exclude, create, increase, decrease, diminish, uniting two or more autonomous districts and determine the borders of any autonomous district. It signifies that whatever strategic importance the frontier area may have, the centre would have ample jurisdiction over it to eliminate any perturbing force.

CONCLUSION

The accommodation of distinct tribal communities through different Autonomous District Council that were ingrained in our Constitution through Constituent Assembly debate was not the ending point in dealing with the issue of diversity in India's context. Newer and multiple

challenges have been emerging gradually in front of the Indian state from different new communities from different parts of the country that demanded inclusion of their governance through such local level institutions. In some cases, these demands have been accommodated and recognized while in others these are suppressed. In the process there occur modifications in the already existent institutions while sometimes it requires amendment in the provisions of the Constitution itself. In the process, peace accords have been innovated as an important instrument of the state in the project of nation – building by which it accommodates and gives institutional recognition to distinct communities within the constitutional and legal framework.

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