

***Adibasi* land law, anthropology and historical reconstructions: Binding upon the *Adibasis*?**

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Abstract

Taking indication from legal discourses, anthropological narratives on the *adibasi* people and some of the references of international discourses on 'indigenous' people's right, the article attempted to explore how these may be binding upon the *adibasi* people in Bangladesh to constitute a single identity—a homogenous category of some sort. The argument that has been put forward is that *adibasi* people's questions of identity; their right has unfolded in the academia of Bangladesh in a manner, which largely reflects a tradition introduced during the colonial era. Recent activism in the international arena which has been variously termed as international/intergovernmental right discourses on 'Indigenous' people in this write-up is also reflective of this tradition. The article forcibly argues that this tradition of conceptualizing the '*adibasi issue*' in Bangladesh requires unpacking. In this anthropology as a discipline can contribute provided that a theoretical and methodological shift in understanding the complex intricacies of the lives and situations of the *adibasi* people is attempted. The article hints on this shift at the end.

1. Introduction

For purporting the disgracing picture he is left with, Daud Biswas, a member of Jatio *Adibasi* Parishad comes up with the following lines:

"During partition in 1947 when Hindustan-Pakistan were born, an interchange took place. That was a time when *Adibasis* were excluded from their land. And then again after Ila Mitra's movement, a good number of Santals left the country due to atrocities committed by the police. During this period also, Muslims took the chance and took control of land straight away and *Adibasis* were unable to reclaim these land ...Again during communal violence of '62, a huge number of *Adibasis*

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left the country. Thus in 1962 when survey started, officials were unable to find out people [the owners of the land]. During this time many Muslims encroached *Adibasi* land and recorded land in their names. And again during liberation war same thing happened. In 1971, those *Adibasis* who left the country were unable to reclaim their land when they came back from India after the war..."ⁱ

...And here is another remark by Fauzia Sheriff, a Ph D. student in the law department of Warwick University UK. On the requirements of the *Adibasis* of the 'North Bengal' to prove their identities during land transfers with non-*Adibasis* she said,

"The *Adibasi* man/woman knows he/she is *Adibasi* ...his village kin know he is, his Manjhi /Mondol can certify that he is. But the law puts this power again in the hands of a diku, non-*Adibasi* . Not only is the *Adibasi* dis-empowered but also his very identity is challenged. The law again fails him and legitimates a system, which could easily award *Adibasi* status to a non-*Adibasi* who has the contacts and power to obtain a certificate..."ⁱⁱ

Recently I came across a number of publications on the *Adibasis* living in the northwestern Bangladesh. This includes academic books, journals and papers. One such publication is a book on the existing legal provisions of the *Adibasis* where I found a discussion on a separate chapter of State Acquisition and Tenancy Act, (hereafter SATA) dedicated for the rules, and procedures of land transaction of the *Adibasi* peoples. I have tried to read this document in the light of my understanding of what anthropology meant during the colonial times, what were its project and what ends it met in the hands of some early ethnographers, administrators cum census officials/chiefs working in the then British India. This experience, frankly speaking, has set the very context of this write-up. The questions I wish to embark on in this write-up is how and within what parameters the issue or the set of issues of *Adibasi* people of Bangladesh, questions of their rights and identity have unfolded in the domain of academia, in the legal discourses as well as in the writings of activists and campaigners? Are the legal discourses, binding upon the *Adibasis* to constitute a single identity-a homogenous category of some sort? The other set of

questions I wish to address in this write-up is how broad dichotomies such as tribal/non-tribal find its expression in pre-independence and post-independence anthropological narratives of Bangladesh. Finally, I wish to see how international discourses on the 'indigenous' people and its 'defining principles' reinforces such categorizations in the name of 'indigenous right' and 'self-definition'?

These are so to speak important questions in the context of *Adibasi* peoples all across the country struggling and searching for a meaning of existence. Clearly the areas I wish to cover in this rather short write-up are broad enough and I donot think it will be possible for me to address these issues with a considerable details. However with the limited resources I want to attempt these questions.ⁱⁱⁱ

2. SATA: 'Safeguarding rights?

I begin by discussing the chapter of SATA. This was a law enacted during the colonial era in order to put some control on the land transfer situation of the *Adibasi* people in general. In fact it is the Bengal Tenancy Act, (BT) which was enacted in 1885 and later on in 1918, Beng. Act II included a new chapter titled *Restriction on alienation of land by 'aboriginals'*. (Saren and Hasan 1990).^{iv} In 1950, BT Act was replaced by SATA, which came into effect in 1951. The aim of SATA was to abolish the Jamindary system and to remove the various tiers of intermediaries on land. But the chapter on the *Adibasi* land 'restoration' and 'protection' was reinstated in SATA.

Section 97 of SATA has a total of 10 sub-sections. Subsection 1 gives a description of the people on whom section 97 will be applicable. It states:

"The Government from time to time, by notifications, declare that the provisions of this section shall, in any district or local area, apply to such of the following *aboriginal castes or tribes* as may be specified in the notification, and that such *castes or tribes* shall be deemed to be *aboriginals for the purposes of this section*, and the publication of such notifications shall be conclusive evidence that the provisions of this section have been applied to such castes or tribe, namely: Santals, Banais,

Bhumijies, Dulus, Garos, Gonds, Hadis, Hajongs, Hos, Kharias, Kharwars, Kochs, (Dhaka Division), Koras, Maghs (Bakergonj District) Mal and Sauria Paharias, Maches, Mundas, Mundais, Oraons and Turis." (My emphases).

Sub section 1 clearly refers to the *Adibasi* groups on whom this law will be applicable and categorically excludes other *Adibasi* groups living in Bangladesh. It also states that in order for this law to be effective a GO will be required where it has to be clearly stated for which *Adibasi* group/ community and for which area this is demanded. For example, this law will not be effective for the Koch people living out side of Dhaka or the Maghs living out side Barisal. This is because the specific locations of the Kochs and Maghs have been specified in Clause 97 (1). Sub-section 2 holds that

"Except as provided in this section, no transfer by aboriginal *raiyyat* of his right in holding or in any portion thereof shall be valid unless it is made to another aboriginal domiciled or permanently residing in Bangladesh who is a person to whom the transfer of such holding or portion thereof can be made under section 90".

Sub section 3 states:

"If in any case an aboriginal *raiyyat* desires to transfer holding or any portion thereof by private sale, gift or will to any person who is not such an aboriginal, he may apply to the Revenue Officer for permission in that behalf, and the Revenue Officer may pass such order on the application as he thinks fit having regard to the provisions of section 88 and 90."

In a nutshell section 97 implies that in order for an *Adibasi* person to transfer land (which may include sale transaction, transfer by deed pool or any other form of transfer) to a non-*Adibasi*, the seller has to seek written permission from the Revenue Officer. Although section 97 of SATA was introduced in order to 'safeguard' *Adibasi* land rights, it now appears that the law is not effective as it was intended^V. The point is that for the *Adibasis*, the very existence of this law to date means that they have to prove their identity, which can often prove to be very difficult. The law in question suggests that the Chairman of the Union

Parishad may provide a certificate to prove a person's *Adibasi* identity, which is often difficult due to pressures from the influential people. Often these procedures can be lot expensive than expected.

A brief mention of section 97 shows a paradoxical reality. On the one hand the law establishes a procedure, which forms as an outlet where corruption can come in. In this regard Sheriff quite rightly remarked^{VI},

"The fact that the transaction has been overseen in accordance with a process set out in law, means that the *Adibasi* has even less power to challenge it. Considering the difficulties he faces in challenging a wealthy Bengali who has taken his land without legal right, what chances would he have of bringing a case to challenge the actions of the official under administrative law? The very abuse, which the system was created to avoid, is legitimated and enforced".

On the other hand we note successive governments in Bangladesh disapproving the much-demanded constitutional right for the *Adibasi* people in the country. What is worth noting is that in many government documents, which includes identity cards and also government notifications the word *Adibasi* is used but Bangladesh government has never given the constitutional recognition of the *Adibasi* populace of the country.^{vii}

3. The colonial basis of 'tribal' category

The language we find in some of the legal documents discussed above clearly reflects a colonial tradition. It should be noted that the special chapter of SATA was reinstated from BT act of 1918. This was an era when an enormous body of literature was produced through a number of surveys and censuses in the then undivided India and lists began to be prepared for the 'tribes', the official line being to give them 'administrative and political concessions'. Notable among the works and reports produced during this era are that of Herbert Risly's two publications: *The castes and Tribes in Bengal (1891)* and *People of India (1887)*, Dalton's *Descriptive Ethnology of Bengal*, originally printed in 1872 and also W. W. Hunter's *A Statistical Account of Bengal* originally printed in 1876.^{viii} However some later generation

writers analyzing this period pointed to the hidden objectives of these socio economic and anthropological data. There is no denying of the fact that this enormous body of literature projected the *Adibasis* as an isolated social group from state, administration and also from the mainstream 'natives' of the day. In the hands of the early ethnographers for example the emphasis was always on the difference, and often in the hands of these ethnographers, this analogy of difference vis-à-vis Otherness was pushed forward to the extent that in the context of Chittagong Hill Tracts people Tripura had no problem in contemplating that for the early ethnographers 'they (the *Adibasis*) existed not so much in real time and place as in the imagination of the British' (Tripura, 1992).

In this respect Beteille notes that the post independence scholars and academicians in India generally accepted these categorizations and classifications of the colonial era without giving serious thought about its rationale. (Beteille, 1974:62) On the *Adibasis* in general a 'stagnant view' to paraphrase Schendel prevails in Bangladesh. This view, according to Schendel is composed of various elements. First, he points out that

"There are *strong echoes of nineteenth-century European view of non-western peoples, particularly those formalized in the classic anthropological assumptions of unilinear social evolutionism from a state of 'savagery' or 'barbarism' to that of 'civilization'*. Nineteenth-century British writers on the hill people described them as 'primitives', 'savages', and 'wild hill tribes', and these terms continue to be encountered frequently in contemporary writings in Bangladesh. Second, *these ideas are superimposed on ancient South Asian conceptions of a crucial distinction between civilized society and nature*. This distinction expressed by the terms 'grama' (village) and 'aranya' (forest), implied a complementary but unequal relationship between the inhabitants of these two realms."^{ix} (My emphases)

In Bangladesh, except for a few exceptional attempts, we see that the dominant view assumes the *Adibasi* people to be the 'remnants of the past' 'childish' etc.^x *Adibasis* in various writings including research

monographs and popular writings have been equated with the 'primitive' and also as a group of people locked in an earlier stage of evolution. For example in the translator's preface, Sufia Khan translator of Pierre Bessaignet's book, *Tribesmen of the Chittagong Hill Tracts* (1958) wrote,

"I always had interest to know about these primitive people who lived not too far away from us ...despite all these changes taking place in the world, why these people still remained in the primitive stage?"^{xi}

As a poignant observation I would like to quote here from a write up of Wolfgang Mey and I quote in full (Mey, 1984).

"Writings about the population of Chittagong Hill Tracts (CHT) in post-war Pakistan and Bangladesh perceive the economic, social and political structures and institutions in the perspective of evolutionary approaches: *They give a picture of isolated and stagnant societies, hidden in the jungles, averse to changes, who hardly had or have contacts with outside world.*" (My emphasis)

In pointing to the continuity of what he calls ethnocentric concepts Mey first quotes from Hamilton. He writes:

"In 1870, we read: 'the whole body of the tribes are in a low stage of civilization, better described by the term 'barbarous' '(Hamilton 1870, in Correspondence 1871: 270).

And then from Sattar:

"In 1971 we read: There are many other tribes in the Chittagong Hill Tracts which lacks this culture dynamism. Consequently, they are lost in the wilderness of pre civilized cult, belief and customs. They have not been able to develop any culture. (Sattar, 1971: 325)"

4. Definition in the 90s: Whose demand? Whose definition?

Adibasis defining themselves etc.

Ever since the celebration of World Indigenous year in 1993, the term 'indigenous' has gained in prominence in the UN circles. The term has been frequently coined in some of the recent instruments/ policy documents on 'indigenous' people, in the aid discourse and also in

recent times in the works of the academicians in Bangladesh. This obviously reflects a 'normative growth' towards a greater recognition and understanding of 'Indigenous' rights. According to some, these rights have already achieved 'the status of customary international law and are therefore legally binding unless there is a persistent objection to it'. (MacKay 1998) How these changes in the international discourses on 'indigenous' rights are affecting the lives of the *Adibasis*?

It is argued by different forums [which includes NGOs, Research organizations and also *Adibasi* forums] in Bangladesh that *Adibasi* people are now defining themselves and now they are comfortably off by the term 'Indigenous'. How far this argument is true? Who is defining whom? In most of the more important tools/ instruments of *Adibasi* activities assert that priority has been given on the rights to 'self-definition'. Definitions developed by intergovernmental organizations include self-definition as a "fundamental criterion." But what self-definition means in this context? Does it just mean that *Adibasis* are now taking more part in 'their' development process? Does it just imply that *Adibasis* are now consulted more often than not? The question is who is speaking for the *Adibasis*? Is it a radical break from the earlier categorizations of *tribe* or *caste* as we have seen during the colonial period?

A look at some of the definitions would reveal that the earlier categorizations such as *tribe*, *caste* or *scheduled tribe* are not all together discarded in the newer discourses on 'Indigenous' right. On the contrary the terms such as *tribe* or *caste* are used side by side with the newly coined term 'Indigenous' in the UN circle. For example, the World Bank's Operational Directive 4.20 on Indigenous Peoples (1991) states that:

"the term '*indigenous peoples*,' '*indigenous ethnic minorities*,' '*tribal groups*,' and '*scheduled tribes*' describe social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process." (My emphasis)

Article 1(2) of the Proposed OAS Declaration, does not include any definition for "Indigenous" peoples, but does define other groups to whom the Declaration applies. It states that the

"Declaration applies to *indigenous* peoples as well as other [Tribal] peoples whose social, cultural and economic conditions distinguish them from other sections of national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations." (My emphasis)

International Labor Organization Convention No. 169, in article 1(a), describe "tribal peoples," as distinct from "Indigenous peoples," who according to article 1(b),

"are regarded as indigenous on account of their *descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization* or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions." (My emphasis)

The UN Draft Declaration goes further, leaving out any definition and including in Article 8 a right to individual and collective self-definition.

The Bangladesh scenario is quite oblique. On the one hand, the government does not take part in many of the events organized internationally on the *Adibasi* rights and issues. But at the NGO level, the issues of *Adibasi* people are gaining ground. For example land right, especially what has been quoted, as 'customary rights' in the NGO circle is now a big issue. The point I wish to raise here is what is happening in Bangladesh in the name of 'Indigenous' rights is broadly reflective of this discursive formation of the international right discourses on 'indigenous' people. And this includes everything from what constitutes 'customary rights' to what or which group constitutes to be the 'original settlers' of the country thus creating a debate as to who are the 'tribes' and who are the 'indigenous' people in the generic sense of the term. A recent newspaper report suggests that *Adibasis* of 'North Bengal' are claiming themselves to be the 'indigenous' people of the country^{xii}. From all this debate the question that immediately arises in mind is how does it serve the *Adibasi* cause in Bangladesh? *Adibasis* are divided more than ever before due to this formulaic representation of their questions of identity.^{xiii}

It is true that international discourses on 'indigenous' rights have not attained a position from where the very definitional criteria of the 'Indigenous' people have been resolved? 'Indigenous' peoples have consistently opposed such definitions on the grounds that the 'right to define, both individually and collectively, who is an Indigenous person or people is part and parcel of the right to self-determination and would include the power to deny rights that attach to that status' (MacKay 1998). To give a specific example I have in hand the statement of 'Indigenous' participants at the Consultation on the World Bank's Draft Policy on Indigenous Peoples. On the question of the identity the participants remarked^{xiv}:

"...The identification of indigenous peoples in the draft policy is problematic. ...The most fundamental criterion for identifying indigenous peoples is our cultural identities. Social and economic indicators should only be used as secondary measures of identification. Our current situation of being socially and economically disadvantaged is a result of external and internal colonization and the denial of our right to self-determination. This needs to be reflected in the policy."

True the debate as to what constitutes *Adibasi* identity is on. But it is also important to note the directions these debates are taking on.

5. Anthropological research in Bangladesh: Context for *Adibasi* identity?

Adibasis in Bangladesh as else where have been constantly in search of questions of their origin and identity. And as anthropology is thought to be a discipline, which is always in the look out of the so called 'origin' questions, it is customary by laymen as well as social science practitioners to direct questions of origin and identity to the anthropologists. The question is to what extent anthropology is in a position to give shape answer to these questions?

Anthropology in this regard has a curious position. From the current practices of the discipline, now taught in five different universities of Bangladesh, it appears that anthropology has not largely discarded the idea of searching for the 'origin' question! By this however I do not

mean that anthropologists have published a lot in this regard, or did fresh research but what I wish to point out is that a common sentiment still prevails in the academia that it is the anthropologists who are in a position to talk about the so called 'origin' questions, be it of the *Adibasis* or the Bengalis or for that matter any other community. In this spirit perhaps anthropologists are frequently asked question of origin of *Adibasi* people. My argument is that there are good reasons for this type of reasoning. A few anthropological publications in Bangladesh could be shown in this regard to have contributed to this reasoning.

For example if we look at some of the 'Anthropological studies' of northwestern *Adibasi* people, it would not be surprising to discover that these have broadly attempted at a 'historical reconstruction' of the different people/ communities living in this part of the country. Example can be provided from the works on *Santals*, *Oraon*, *Malpahari* and *Munda* people of the northwestern Bangladesh. My argument is that for these studies the point of departure at most in all cases remained a colonial conception of the problem. Works of Dalton, Risley and several other census chief's works, enumerations and 'authoritative' publication, served the purpose of reference point for these studies the end result being a one dimensional-fixed understanding of the *Adibasi* people in question. This perhaps explains, what Schendel meant by the phrase 'stagnant view' that prevails in Bangladesh.^{xv}

A look at the history of anthropological thought, however, shows that earlier engagement by anthropologists on these very questions at the beginning of 20th century have shown how the very idea of an 'authentic' culture and identity is problematic because what is presumed to be 'authentic' in the first place is often the outcomes of colonial processes of cultural constructions and reconstructions. Often, it has been observed that such processes have taken place long before the ethnographer have had reached the culture and people in question^{xvi}. Thus anthropologists are put into a contradictory situation so to speak because we have seen as late as the early 50s attempts of historical reconstructions of the so called 'small scale societies', an approach the limitation of which has been already expressed in the early years of British anthropology by A.R. Brown. The works of anthropologists,

which comes immediately in mind, are Pierre Bessaignet's *Tribesmen of the Chittagong Hill tracts* or Levi-Strauss's work in erstwhile East Pakistan or his famous remark about anthropology having wide scope in the country.

For the present purpose however the crucial question is, how to 'reconstruct' a culture when it is already transformed? Anthropological researches from the 80s onwards with the guidance of few theoreticians have become highly critical of colonial transformation of the societies in questions, in which they are typically engaged in, to the extent that the classical methods of inquiry have come under attack. For the anthropologist working in a Third World context the question is to explore the history of this transformation^{xvii}. While one can see few attempts in this regard in the academia of India, we haven't seen any shift of priorities in this regard in the context of Bangladesh. On the contrary, anthropologists and other social science practitioners (notably sociologist) have been preoccupied with unrelated facts often having no connection for the *Adibasi* people in question. Works done in the recent past on the *Adibasis* of northwestern Bangladesh shows almost zero attempt at dealing with the question of colony and colonial transformation at the one hand. On the other hand *Adibasis*'s questions of identity have been essentialized within the dichotomy introduced during the colonial period with no critical evaluation of this type of classification. This is also enmeshed with certain attitudes and approaches of anthropology, for example physical anthropology. Under the circumstances, I find it impossible to conceive how so called 'anthropological expedition-tourisms'^{xviii} to *Adibasi* villages can come up with some thing serious for the *Adibasis* without confronting the question of colony and also the colonial basis of *Adibasi* identity.

In a nutshell the pattern of anthropological research shows that anthropologists worked among the so-called tribal populations of Bangladesh only to discover the distinctive (read, exotic, peculiar, primitive, backward) nature of their livelihood. My argument is that this practice of anthropological and other social science research is constantly binding upon the *Adibasis* and their identities.

In the same vein I presume, the question of identity of the *Adibasis* people are at stake once again when 'experts' talk about 'customary

rights'. In recent times it has been reported in a number of publications that *Adibasi* people consider land as a collective property. For example Kamal (2002) reports that years of possession of land has given the *Adibasis* a kind of 'traditional ownership', which is completely different from private ownership system induced by the state of Bangladesh. It is not clear, considering the little information we have as to what extent this analogy of 'customary right' should be pushed forward. On the one hand we see talks about customary rights in some of the international discourses on the Indigenous population. And now rightly or wrongly we see a number of organizations and agencies working on *Adibasi* questions are demanding to 'formalize' the *Adibasi* customary right. In relation to the land situation of the *Adibasis*, some reports suggest that *Adibasi* land situation deteriorated when state introduced private ownership policy of land. As part of the policy, 'proper document' became an important means by which a person would establish his/ her right over a piece of land, quite contrary to the *Adibasi* tradition, which acknowledges 'community ownership'.

I think reports such as these are short sighted and does not take into the consideration the long complex history of the *Adibasi* people's settlement in this part of the world. What is problematic however is the tendency among the researchers and scholars to invoke concepts and terminologies of classical tribal literature in order to understand the *Adibasi* people of the country. This, I must say, instead of giving a clear picture of the situation, serves the purpose of alienating the *Adibasi* people of the country. The *Adibasi* people we are talking about say for example the Santals of Bangladesh and India are quite a large group of population to be considered as tribal in the classical anthropological sense of the term. It created unnecessary confusion in Indian sociology and anthropology when first employed from some of the disciplinary contexts in India. (Beteille, 1974) I think it is creating confusion in Bangladesh as well. Even in recent write-ups on the *Adibasis* of Bangladesh, it is argued that the *Adibasi* people are 'simple minded', they are under immense pressure due to new laws induced by the state of which generally they are unaware. For example in a paper presented at a Dinajpur workshop, Badal pointed out that during CS record (which took place between 1890-1940) many *Adibasis* were not able to record their land due to their 'complacent' attitude towards land. *Adibasis* during this time were completely ignorant of the formalities of land related documents. The same was true during SA record (1956-1962). So the argument goes, "For a sections of Bengali people these

were opportune moments especially in the context of *Adibasi* complacency and disregard for state adopted rules and intentions" (My translation)

My point is that this a static view and conceptualization of the problem, and also represents a derivative discourse of the colonial era which requires unpacking. The question of customary right is inevitably linked with some of the more fundamental questions of *Adibasi* history, culture and identity. So there is no point in taking the examples of Manjhi/ Mondol ('traditional' authority figures among the Santals) of the Santal people at face value. On the contrary, the complex history of how in *Adibasi* societies, Manjhi /Mondol came into being needs to be explored. This I say just as an example^{xix}. Otherwise the search for a true definition of *Adibasi* identity can be seriously binding and self-limiting upon the *Adibasi* people of the country.

For anthropology a question of methodology lies ahead. This question of methodology has to be resolved before anthropologists in Bangladesh could seriously think about the *Adibasi* people. Other wise it will loose its relevance. This reminds me of a remark made by an *Adibasi*, urging for stopping dissecting the *Adibasis* in a gathering organized for the 'for the *Adibasis*'. There are a number of different *Adibasi* groups living in Bangladesh and historically, culturally and linguistically they can be shown to have been quite unrelated just like the way Bengali people are shown to have been unrelated with the *Adibasis* in general. My point is that there is no point in overemphasizing the differences between the *Adibasis* and the Bengalis, not least because some 'authentic' sense of history would put the *Adibasis* and the Bengalis in the same tract, as some people would like to put it but because over emphasis on differences at the end will meet the ends of the majoritarian state policy of Bangladesh.^{xx}

6. Can issues of land rights or for that matter the terminologies such as 'indigenous' or 'customary rights' hold back the *Adibasis* in place?

The core argument in this article has been to assert that broad dichotomies such as tribal / non-tribal may cover up more than they reveal. Religion, class, educational background, gender, age, and ideological leanings all are assumed to have been derivative of or less important than the *Adibasi* identity. For a conceptualizing such as this,

chances are high that the intricacies and complex shifts of modern history of the *Adibasi* people would be collapsed into a one-dimensional and static dichotomy. This perhaps reveals why a converted *Adibasi* person is left with no other choice but to show her/his uneasiness in front of an '*Adibasi* forum' talking about religious conversion, its circumstances instead of talking about rights. Or a *deshi* born, western educated *Adibasi* talking about so called *Adibasi* issues and making the significant point that these issues would not hold back the *Adibasis*. Clearly conventional wisdom would force one to say and speak otherwise.

In a seminar, Hasan Azizul Huq, eminent writer of Bangladesh remarked that for a poor Santal all this talks discussions and workshops on the *Adibasis* will not do. If I remember correctly he said, 'What he is direly in need is food and resources to carry on with his livelihood. These are cases of misfits or some may say 'disturbing' opinions. Clearly these opinions are at unease with dominant discourses on the *Adibasi* question. It is disturbing if the question is smooth pursuance of the *Adibasi* right discourses in Bangladesh. Otherwise, these remarks constitute examples of transgressions -of the very dichotomies, which Colonial/ Indological/ Intergovernmental discourses/knowledge on 'Indigenous' population have so far managed to produce and reproduce.

Notes

- i Quoted (in Bangla) in Mesbah Kamal, I. Chakaravarti and J. Nasrin edited book *Nijbhume Parabasi: Uttarbanger Adibasir Parntikota Discourse* (2002) RDC. Translation mine.
- ii Quoted from a paper presented at a workshop titled 'Adibasi Land Problems in North-western Bangladesh' organized by Research and Development Collective and Oxfam GB, held in Dinajpur on 19th January 2002.
- iii The kinds of material I shall be dealing with in this article will be selective, partial in the sense that it would only cover the north western *Adibasi* people of Bangladesh. In course of writing however, for information on the *Adibasis* of northwestern Bangladesh, I came across a number of other publications albeit old but useful in the sense that these were some of the few publications available for consultation. One such book is Mahmud Shah Qureshi edited *Tribal Cultures In*

Bangladesh which dealt with a healthy number of articles on the *Adibasis* of northwestern part of the country. In this connection one can however note that the question of the *Adibasi* people in the academia of Bangladesh have regularly featured in the last few years, specifically in the field of anthropology, sociology, political sciences and also in some other social science disciplines including international relations. The body of literature, which emerged during this period of time, has often been referred to as a 'post-nationalist' critique of the nationalist historiography of Bangladesh. A cursory look at this literature however reveals that most of these studies were done in the CHT area. (See: Schendel 1992, Tripura 1992 Mohsin and Ahmed 1996, Mohsin 1997) Of late there has been a growing dissent among the *Adibasis* of 'North-Bengal' that 'they' have not been properly represented during these periods. I can confirm this message from at least my participation in two workshops held in Rajshahi and Dinajpur respectively on 12th and 19th January 2001. For this write-up, I have occasionally quoted from some of the papers presented in these workshops (hereafter Rajshahi and Dinajpur workshop). Research and Development Collective and Oxfam GB organized both the workshops, titled 'Adibasi Land Problems in North-western Bangladesh'. In this regard I am indebted to Mesbah Kamal, Department of History, Dhaka University and General Secretary, RDC for giving me the opportunity to participate in these workshops. However for the views expressed in this article, the usual disclaimer applies.

- iv It is interesting to note that section 97 of SATA uses the term 'Aboriginal' (literally meaning *Adibasi* or *adi odhibashi* in Bangla) in referring to the *Adibasi* people. In this sense the usage of the term *Adibasi* predates its recent revival as a synonym for 'indigenous people'. I have throughout this write-up used the Bangla equivalent of the term- *Adibasi* as they are commonly referred to in the northwestern districts of Bangladesh and also because a consensus has been reached in recent years on the terminology. (See: SHED, 1997) However what should be noted is that terms such as *Adibasi*, tribal, indigenous or for that matter aboriginal are used interchangeably in the many documents I have consulted. This includes publications by academicians as well as government documents, notifications and court proceedings.
- v The impending factors in the proper execution of this law are the ones, which are very much common in the rural areas of Bangladesh. It includes grabbing of land by force, creating false documents and false

- appearance in the court and also at the registrar's office, showing of muscle power, showing an *Adibasi* a converted person etc. Lawyers involved with *Adibasi* cases points out that in matters of *Adibasi* land transfers, existing legal provisions are overlooked by adopting illegal means. Often land registration is done in the sub-register's office by presenting the *Adibasi* person as a converted Hindu or Christian. This is done by presenting the *Adibasi* seller with a false name, thus avoiding this whole question of legal technicalities with regard to *Adibasis* land transfer. According to Advocate Amin, a lawyer from Dinajpur, complication arises when an *Adibasi* person converts to any other religion say Hinduism or Christianity, because this law is not provisioned for the Hindus and the Christians. This is how *Adibasis* are taken out of the Aboriginal category. Michael Saren, a lawyer from Rajshahi Judge Court, voices similar concern. He pointed to the fact that till to date *Adibasi* people, especially in matters of inheritance, is governed by Hindu laws. Historically it could be shown that majority of the *Adibasis* in the northwest have converted to Hinduism and also to Christianity. However, according to some analysts, the law has nothing to do with conversion. For an analysis of this see: Rafiqul Hasan and Michael Saren (1990), *Civil Law, Adibasir Sampatti Hastantar O Khaikhalasi bandhak Ayeen*; Hasan Law House, Rajshahi.
- vi Sheriff. op.cit.
 - vii Mongol Kumar Chakma in a write-up titled *Adibasi Jonogon o Bangladesh Jatirashter tader abasthan* expresses similar concern on this issue. See: Mesbah Kamal and Arifatul Kibria (2003) edited book *Bipanya bhumijj* published by RDC Dhaka.
 - viii For a full reference see the reference list below.
 - ix Quoted from a paper presented by Willem van Schendel titled *Who speaks for the nation? Nationalist Rhetoric and the Challenge of Cultural Pluralism in Bangladesh* at the conference 'Bangladesh at 25', Columbia University, New York held from December 5-7, 1996.
 - x Ibid.
 - xi This particular remark was also quoted in a previous write-up of ours. See: Sumon and Ferdous, (2000-2001) Exploring 'Indigenous' People: *Dilemmas of Academics in Bangladesh* in *The Jahangirnagar Review*, Part II Socail Science Vols XXV-XXVI
 - xii *12 lakh 'Adibashi' people in Rajshahi are no longer backward*: The Daily Star 29. 09.02
 - xiii My argument in this regard is that there is problem in pushing forward this analogy. From some of the international conventions (which includes conventions by United Nations and Inter-American human

rights instruments, International Labor Organization Convention No. 169, United Nations Draft Declaration on the Rights of Indigenous Peoples and the OAS Proposed Declaration on the Rights of Indigenous Peoples.) and from some of its definitional criteria it appears that customary right has a specific meaning. It would not be surprising if it were discovered that this definitional criteria is formulated keeping say the tribal literature of Melanesia and Australia in mind. The definitional criteria of the term 'indigenous' itself has been so problematic that the newer conventions are trying to accommodate more broad and loose definitional criteria, even suggesting local NGOs to adopt a flexible approach found appropriate in the field. (Mackay, 1998). So the question of customary laws loses its ground because as is seen in different *Adibasi* forums, people are talking about customary right as if the 'thing' exists among the *Adibasis* and what is left is to go and collect it and make a compendium of some sort. Whose demand is this? Is it the demand of the *Adibasis*? I think not.

- xiv Statement of Indigenous Participants at the Consultation on the World Bank's Draft Policy on Indigenous Peoples (OP/BP 4.10) Dhaka, Bangladesh, 14 November, 2001.
- xv Schendel op. cit
- xvi See Ruth Benedict's illustrious book *Patterns of Culture* (1939). Also see A.R. Brown's experience of attempting at 'historical reconstruction' of the Andaman islanders in Adam Kuper (1973) *Anthropology and Anthropologists*, RKP.
- xvii For an elaboration of this concept see Talal Asad, (1993) *Genealogies of Religion*. The John Hopkins University Press
- xviii By this what I wish to refer is the practices of field-visits, often performed in heresy by different organization; well if I am asked to characterize, I would say this type of 'visits' are marked by shortage of time, money or worse a proper discussion with the people for whom the visit is made. My view is that this amounts to be nothing but a sort of tourism of no serious intent in the name of anthropological fieldwork.
- xix For such explorations one can see a write-up by Swapan Dasgupta titled *Adivasi Politics in Midnapur, c. 1760-1924* in Subaltern Studies IV OUP.
- xx For a discussion of Bangladesh state's majoritarian model of Nationalism, its constitutional aspects see: Mohsin Rashtra, *upo-rashtrio Jatiotabad ebong upo-anchalikatabad:mukhoshor ontoral theke unmochon* Shamaj Nirikhon 65, Dhaka University.

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