

# INQUIRY INTO TRIBAL SELF- GOVERNANCE IN SANTAL PARGANAS, JHARKHAND

*By* Hasrat Arjjumend

**GRASSROOTS**  
INDIA TRUST

**INQUIRY INTO  
TRIBAL SELF-GOVERNANCE  
IN SANTAL PARGANAS,  
JHARKHAND**

*by* Hasrat Arjjumend

GRASSROOTS INSTITUTE

**GRASSROOTS  
INDIA TRUST**

---

Railway Reservation Building  
134, Street 17, Zakir Nagar, Okhla  
Opp. New Friends Colony A-Block  
New Delhi – 110 025 India  
Tel: 011-26935452, 9868466401  
Fax: +91-11-26936366  
E-mail: [git@grassrootsglobal.net](mailto:git@grassrootsglobal.net),  
[grassrootsindiatrust@gmail.org](mailto:grassrootsindiatrust@gmail.org)  
Web: [www.grassrootsglobal.net/git](http://www.grassrootsglobal.net/git)

---

---

## PREFACE

---

---

Period of half a decade in looking closely at the PRIs in the Scheduled Areas of undivided Madhya Pradesh was not less for me to guesstimate the prevalence and interference of bureaucracy and officialdom, and its associated callousness, domination, insensitivity, etc., in the lives of tribes and poor. Nothing significant has ever changed in the tribal villages except that of penetration of party politics, growing de-fragmentation in the families/communities, heavy inflow of funds with least visible impacts, and increasing number of NGOs claiming empowering the *gram sabhas*. Question now arises, are the tribes the animals for our unprecedented experimentation, or do we respect them as equal human beings deserving to 'determine themselves' to rule, to govern their lives and resources? Public institutions, more often unaccountable, of the 'mainstream' seem to have dearth of willingness on the later question. Where do we want to land then? Tribal self-rule first and foremost is a peculiar area to understand, to work in. I so far have encountered the civil society actors and public servants who advocate for merely the representation, attendance, decision/distribution of schemes, and alike. Why do the people not address the more fundamental issues of the governance — validity/ relevance/ applicability of the legal frameworks guiding the local self-governance, actual (not rhetorical) space for weak/marginalized in the process and means and ends, the exclusion/ inequity/ disempowerment issues as perpetual social processes underneath the village society, support/hindrances and control of external actors, and alike. At the end, it seems, the hegemony of power centers of all sort will long last, leaving the tribes in constant distress.

More surprising is the silence among the tribes around the country except states of northeast and Jharkhand. In Fifth Scheduled Areas, Jharkhand is the first state where tribes have raised their voices in support of their traditional self-governance and demanded its recognition as PRIs after reformation of the current frameworks of governance. It is the step towards seeking 'inclusive' and 'accountable' governance. But, on the other side, the issue is very complex and sensitive. Grassroots Institute of Grassroots India Trust is the pioneer in commissioning this inquiry entitled into the crucial issue and at least to reach some vantage point from where further action can be ascertained by even other actors.

Coincidentally, the prime advocate of traditional self-governance in Santal Parganas, Dr. Basudev Besra, had already worked to a large extent on the same issue, but employing different approaches. Yet, he acted to be instrumental in pursuance of this study especially in Jamtara district. He also permitted few of his unpublished texts to be used in this document. I am indebted to him. Other several key facilitators whose help I enjoyed were Mr. Laskar Soren, Mr. Karnal Soren, Mr. Sunil Hansda, Mr. Sunil Hambrom and Mr. Ashok Raut, they should be acknowledged for their support.

Last but not least, the community of the villages for providing, even without prior informed consent, the information, opinions and views, and hospitality, must be extended cordial gratitude.

— Hasrat Arjjumend  
Director, GI

March 2005

# Contents

■ <i>Abbreviations</i> .....	ii
■ Overview .....	iii
■ Background of the Study .....	1
■ The Study Area .....	9
■ Traditional Self-Governance among Santal and Paharia .....	17
■ Legal Recognition of Traditional Self-Governance .....	39
■ Traditional Self-Governance and Tribal Lives .....	46
■ Participation of Women in Traditional Self-Governance .....	53
■ Traditional Self-Governance under Alien Models of Governance .....	57
■ Traditional Self-Governance and Contemporary Development .....	62
■ Traditional Self-Governance or New Panchayati Raj: Towards Reconciliation .....	69
■ Conclusion: Can Traditional Self-Governance Work? .....	75
■ References .....	79
■ <i>Annexure-I</i> .....	I

## Abbreviations

✦ CO	Circle Officer
✦ CPR	Common Property Resource
✦ Damin	Skirts of Hills (Area covering Rajmahal hills and parts of Pakur and Dumka districts)
✦ DC	Deputy Commissioner
✦ DDC	Deputy Development Commissioner
✦ GVS	Gram Vikas Samiti
✦ IAY	Indira Awas Yojana
✦ JPRA	Jharkhand Panchayat Raj Act 2001 (amended, 2003)
✦ MWS	Million Well Scheme
✦ NTFPs	Non Timber Forest Products
✦ PDS	Public Distribution System
✦ PESA	The Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996
✦ PWD	Public Works Department
✦ sal	<i>Shorea robusta</i>
✦ SDO	Sub Divisional Officer
✦ SPTA	Santal Parganas Tenancy (Supplementary Provisions) Act, 1949
✦ SSA	Sarva Shiksha Abhiyan
✦ TSG	Traditional Self Governance
✦ VLW	Village Level Worker

## Overview

---

Tribal communities in India have their own history of struggles for identity, citizenship, survival, representation and pro-people development. Jharkhand is characterized with unique history of mobilization and assertion for ethnic identities and control over resources and self-determination. In the quest of governing the tribal territories the tribes evolved their own system of governance for the purpose of regulating the individual and communal behaviour of the people in the society. Jharkhand is reported to the tribal groups having their traditional social institutions — called traditional self-governance (TSG) institutions — with a strong concept of democratic participation and governance. With the growing changes in the societies and the formulation of modern governance systems in the country the TSG institutions underwent a decay process; however, the traditional institutions at some places developed resilience and considerably overcome the erosion. In the recent times, with the advent of 73<sup>rd</sup> Constitutional Amendments the whole scenario seems to have changed. Incorporating inadequately the spirits of PESA, Jharkhand promulgated in 2001 Jharkhand Panchayat Raj Act, but owing to bounteous political awakening among dominant tribal groups of Jharkhand the party in power could not dare to announce elections of local bodies. Voice of a section of tribals, who reject the election of panchayat bodies under modern system of local self-governance, cannot be ignored. They contend, if PESA rules to constitute PRIs in consonance of traditional, customary, cultural and localized norms of the tribal groups, then what is the necessity of forming new governance institutions in the villages once TSG institutions have already been existing. This is the reference point from where Grassroots Institute conceptualized this study to look into the TSG institutions in the widely changed environments apart from understanding the authenticity of voices raised by the tribal groups. The study was pursued in total 9 villages of Jamtara, Pakur and Dumka districts of Santal Pargana region of Jharkhand. The study has been completed in 4 months beginning from November 2004 to March 2005.

Santals have their own 3-tier community council. The village council (*more hor*) is headed by a *manjhi*, who is assisted by other council members in looking after village affairs. Ten, fifteen or more villages constitute the jurisdiction of a *pargana*, headed by a *pargana* or *parganait*, who also is helped by his councilors to look after the inter-village affairs. The highest political authority rests with the *khunt* council (*lo bir*), headed by a *dehri*. Chieftain of the village is the *manjhi*. His duties are multifarious as his position is that of a hospitable disciplinarian and a communal custodian. *Manjhi* is supported by other officials such as *jogmanjhi*, *godait*, *paramnik*, *naeki*, *kudum naeki*, *lasser tengoi'* and *bhoddos*. The tenure of *manjhi* is by principle one year, but due changes that have occurred since British era the post has emerged as hereditary. Village council is supreme and keeps control over the TSG officials. *Pargana* heads the 'council of five *manjhis*' and is supported by *chakladar* and *deshmanjhi*. Particularly after *hul* (Santal rebellion) of 1855-56 the British government in Santal Pargana adopted the *pargana* body and

modified it in their interests. In the modern times, heavy erosion of *pargana* has taken place. Like Santals the Paharia also have their TSG institutions, if they have villages of their exclusive presence. Among Paharia the village head is *dahri* assisted by *godait* and *dewan* or *nayak*. The *dahri* presides over the council of elders. The structure above the village is of *parganait* or *sardar* that may or may not be shared by Santals and non-tribes. Paharia is one of the primitive tribes in the country that passed through heaviest burden of assimilation, acculturation, detribalization and host of development pressures. As a result the TSG bodies of Paharias either weakened/eroded at some places or completely died at the other. In the villages particularly that came in the influence of non-tribals and or urban centres the TSG bodies are difficult to even trace.

Traditional Santal Judiciary is a legendary. There are four tiers of Santal court: Manjhi Baisi, Mapanjhi Baisi, Pargana Baisi and Lo Bir Baisi. The Santal traditional judicial hierarchy was formulated in the remote past, yet the amazing aspect of this system is the survival of it after so many statutory restrictions. In the present panchayati raj system, this traditional system of governance wields as much authority as the statutory panchayats. Even today the Santal community prefers its own system to the statutory panchayat and judicial system of the area. A Santal knows and wishes to know only his *manjhi*, *pargana* and *dehri* in the adjudication of justice.

Some of the functions of the *manjhis* and *parganait*s were recognized under the statutes of colonial rule. In post-colonial India these tribal self-governance (TSG) institutions have also been legally recognized. Beginning from Yule's Rules 1856, A. W. Cosserat's Arrangement of 1880, Parganait Reward Fund 1895, Rural Police Regulation 1910, McPherson's Settlement 1905-12, Gantzer's Settlement 1922-35, Santal Parganas Enquiry Commission 1937, Santal Civil Rules 1946 and Santal Parganas Tenancy (Supplementary Provisions) Act 1949 of the British times to the Standing Order 14/53-54, PESA 1996 and JPRA 2001 of post-independence period, all have recognized the TSG institutions at village and inter-village level.

The emergence of community life in the tribes marked with evolution of the mechanism to administer and control the social behaviour, which took the shape of TSG institutions. Social, cultural and ethical issues primarily came under the purview of TSG bodies. Likewise, hundreds of matters concerning the welfare of the community are regulated by TSG bodies. In the condition if a person does not follow the norms, the TSG body warns, checks or punishes appropriately. Moreover, the tribes mostly live in resource-rich areas, and the responsibility of management of resources in the village territory grossly lies with TSG body of the village. The TSG institution regulates the use, distribution, sharing, transfer, inheritance and ownership on possibly every type of the resource available in the village. Resources might be the land, water (natural or managed), minerals, fishing, grazing grounds and other CPRs, trees, livestock, sacred groves, etc. Under the development phenomenon

and skewed societal changes the protection of tribal lands from alienation and the preservation of culture, identity and traditions have become the precarious questions the tribal people nowadays encounter. Over recent times the TSG institutions appear to evolving the mechanisms to address such contemporary vital issues. Though it is not universally applicable, however, this can be sighted in majority of the cases provided the TSG body itself has not died or been dying.

TSG institutions have its role in providing with the rights of the women as human being and regulate their participation in the management of properties and the participation in governing systems in the village. Traditionally, 3 seats are reserved for women in the TSG body at village level. They are called as *budhi hadam*. Sitting on these 3 *ex-officio* posts (*manjhi budhi*, *jogmanjhi budhi* and *naeki budhi*) are, respectively, the wives of *manjhi*, *jogmanjhi* and *naeki*. Tribal respondents in study villages have opined variedly on the issue of giving space for women to head or officiate the TSG institution. Liberal youths when consented on the appointment of woman as *manjhi*, the orthodox elders at the same time rejected the proposition. After all the issue of the participation of women in the TSG institutions is a crucial one that attracts further careful inquiry. Yet, pessimist view on this aspect of governance heads towards not rejecting the future possibilities of women participation in TSG institutions if they are inducted into new constitutional PRIs.

It was the colonial rulers who first timely altered the TSG system of tribes in Santal Parganas and fixed the village council officials for serving their interests of rent collection and general administration. However, instead of replacing the local governance system with alien one, they wisely used the existed system by allocating additional powers/ resources to the village council officials especially *manjhi* and *parganaits*. Therefore, the functions of village officials were also expanded. Rent collection, thus, was one of some duties and powers the colonial rulers infused into TSG institutions. In post independence period, PRIs were formed throughout the country as a means of strengthening the village level democratic institutions and as a part of the dream of *gram swaraj*. It had provisions of direct elections of *mukhia* and *sarpanch*. They were expected to handle different activities like village disputes, village development work, maintaining relationship with government officials, and so on. But, on the behest of imposition of statutory PRIs in the tribal regions, it had many advance impacts on the TSG system. The colonizing alien PRIs turned out to be a centre for political manipulation, rivalry and competition in the villages that accelerated weakening of village councils and degradation of ecology, simultaneously.

*Mukhia* of statutory panchayat, created under Bihar Panchayat Act 1948, happened to be active in the villages till the seizure of their powers in 1994 by the Govt. of Bihar. Various development works completed through *mukhia* and the block offices were reported to be unsatisfactory by a range of respondents in the study villages. It reflects that since

independence the development agencies at the lowest level continued to link with the officials of statutory panchayats that largely failed particularly in ensuring the participation of local community. As a result, whatever the development aid percolated to the village could not become accountable to the people leaving dissatisfaction among them. While on the other side, the TSG institutions were found having clear-cut vision for the development of their villages. TSG institutions thus have multiple advantages in this respect. The vision about the development of their villages and capacity to deliver the development functions have been explored among the TSG institutions in study villages. Can TSG officials execute the development projects? Responses came forward were very positive and revealing. As regard of managing the relations with external agencies and development officials, the TSG officials (one or two, if not all) of some villages exhibited their capacities to handle the outsiders. Obviously, as of now every one of TSG officials is not able to properly handle the external agencies as he/she ever remained in isolation of modern functionaries.

For the Scheduled Areas the PESA appeared to be the assured solution for self-governance. In different corners of the country and Jharkhand the tribal people applauded the verdict of apex legislative. However, the contours of the Act, it seems, are not clear to legislative and executive in Jharkhand. Conspiracy over the Jharkhand Panchayat Raj Act 2001 (JPRA) is another classical example of the fate of PESA in Jharkhand. The JPRA 2001 has so many contradictions vis-à-vis PESA. Panchayat election has also been a contentious issue in Jharkhand. No political party heartedly wishes to hold the elections in the state due to complex reasons. Fragile politics in the state does not allow anyone to dare for. Opposite the flood of petitions, mainly filed by non-tribals, in High Court challenging the reservation clauses in the JPRA, the tribal organizations/ individuals petitioned in High Court advocating the inconsistency between the JPRA and TSG systems of tribes in Jharkhand. The issue has emerged too compound to resolve easily and to arrive at one conclusion.

Tribal communities, however, mostly favour the due recognition and allocation of space for TSG institutions in new PRIs at appropriate level. Notwithstanding, the JPRA attracts comprehensive reformation to truly inculcate the spirits of PESA, which provides for the *gram sabha* with majority of the powers. More complicated issue has been the mandatory participation of women in PRIs as provided by 73<sup>rd</sup> Constitutional Amendment and the central PESA. But the tribal people appear to be uncomfortable in accepting the woman's headship (*manjhi* or *pradhan*) in *gram sabha*.

Conclusively, the TSG institutions need to be appropriately integrated into the PRIs after proper modifications/ remodeling particularly in context of women participation. It is advisable from point of view of avoiding undesirable conflicts at micro level and bringing efficiency in the newly constituted PRIs.

## **Background of the Study**

State of Jharkhand came into existence in 2000 that included parts of South Bihar. Jharkhand even today survives with the legacy of rich tribal cultures and struggles for identity and citizenship. Over the centuries, the tribes in this 'land of jungles' evolved their own technologies, innovations and ways of living in community settings and interacting/facing different forms of environments — natural, physical, social, economic, political and cultural. In a diverse milieu the tribes succeeded in constructing, modeling/ remodeling and evolving their own system of governance for the purpose of regulating the individual and communal behaviour of the people in the society while interfacing the material beings. Jharkhand is reported to the tribal groups having their traditional social institutions with a strong concept of democratic participation and governance. The traditional institutions have been a product of a system developed by the tribals evolved and modified in a natural evolution process through ages. The system combines political affairs with social, religious and economic affairs including management and ownership of resources (PEARL 2001). This system of self-governance has always been varying depending on the tribe. But, unarguably, it is "traditional" — evolved over generations after extensive experimentations. We may just term this system of governance as "traditional self-governance" of the tribes. Traditional self-governance (TSG) system having candid support and faith of everyone from the community should not be mistaken as 'static' and 'isolated'; it has ever been 'dynamic' and 'embedded'. Dynamic in the sense that the environments encapsulating the tribal societies remained always changing while posing new challenges, difficulties, constraints and opportunities for the operationalization for the TSG. To cope with, the TSG institutions also brought about modifications and internalized the external changes. They were embedded in the fabric of tribal society and had necessarily no tangibility to function in isolation. Moreover, TSG institutions had to interact a wider range of societal segments and administrative networks outside the tribal territories. The external connections tended to bring in diversity and resilience in these TSG institutions. However, the internal changes also have started to occur in the tribal society itself and the TSG institutions by virtue of penetration of development and market into the villages. It poses unknown challenges before the self-governance institutions of the tribal communities.

Notwithstanding the dynamicity of outer world, the rapid change in the environments outside and inside the tribal territories has been increasingly forcing the TSG institutions into the entities that are isolated, excluded, de-legitimized, colonized and eroded. It is not the case that these effective institutions have now turned to be incapable; but it is the time and tangible/ intangible relations in the world that have quickly altered them, which overtook and dominated possibly all traditional communities. We have learned that it were the British rulers who primarily dismantled, de-legitimized, desecrated and enclosed the tribal self-governance institutions for colonizing the lands, resources and human beings. In the post-independence era, not only the status quo has

been maintained but the tribal territories with plenty of natural resources also have been recklessly exploited. After uninterrupted hammering on the TSG institutions, and disempowerment, dispossession, exclusion and marginalization of the communities, the tribal people in India, and in Jharkhand too, have been put on the bottomline of contemporary societies. In the changed environments and, consequently, bulging inherent demands among the tribals for transformation, the TSG institutions not only have to face unknown challenges and constraints but also are bound to fail in dealing with a variety of issues seldom endemic to them. If we look at an accessible tribal village, the appearance of village is such that it has undergone changes due to constant onslaught of mainstream development on the tribal men and women and their resources. Poverty, starvation, resourcelessness, ill health, illiteracy have become the destiny of tribals today.

Soon after independence the Govt. of Bihar executed a panchayat law, the Bihar Panchayat Act 1948, that superimposed a parallel local governance system in the villages of Jharkhand where a traditional governing institutions existed for time immemorial. This phase of history (1947 to 1994) is classical source of understanding the interface of modern panchayats and traditional panchayats. Available documented evidences witness horrendously the erosion of TSG structures under the pressure of modern panchayats. Forwarding the similar pattern of rural governance, the new panchayati raj system under the auspices of Constitutional mandate has become more prevalent all across the country. Jharkhand has been the last state yet to hold the panchayat elections even after mandatory provisions in 73<sup>rd</sup> Constitutional Amendment to do so. Incorporating inadequately the spirits of PESA, Jharkhand promulgated in 2001 Jharkhand Panchayat Act, but owing to bounteous political awakening among dominant tribal groups of Jharkhand like Santal, Munda, Oraon, Ho the party in power could not dare to announce elections of local bodies. A point, however, should not be ignored here, and that is the robust voice of a section of tribals who reject the election of panchayat bodies under modern system of local self-governance. They contend, if PESA rules to constitute PRIs in consonance of traditional, customary, cultural and localized norms of the tribal groups, then what is the necessity of forming new (colonizing) governance institutions in the villages once TSG institutions have already been existing. This issue is in active debate in the state, and pressure is mounted at government for co-opting the TSG institutions as modern PRIs. Yet, the debate is continuing and the state machinery lies in doldrums whether to elect the representatives or to select them from existent TSG institutions.

Moving forward from this apparently irreconcilable issue, there was a need to look into the strengths and weaknesses of TSG bodies in the widely changed environments apart from understanding finely the validity, relevance, functionality, adaptability and rationality of them in

varied contexts. The applicability and usefulness of such an inquiry was judged keeping the following assumptions into consideration:

- a) *TSG institutions are adopted and co-opted as PRIs*: The findings of the study would support understanding the precarious linkages of TSG institutions with immediate and distant environments, the operationality and dynamicity of TSG institutions in the context of resource management, community affairs, social justice, empowerment, preservation of identity, development, participation, equity, etc. How did the TSG institutions respond to unseen changes in the social, economic, political and environmental condition was also understood.
- b) *PRIs are constituted afresh by election (or by selection) as they are in other states*: What will happen to TSG institutions? Will they continue functioning (as they are in many other states), with what consequences? Will they have interface with elected PRIs, and what will be the bearings?

Out of the said assumptions, the proposed study may provide with the scope of laying down a repository of lessons, wisdom, innovations, ways, etc. that could be subscribed for strengthening PRIs. Strengths of TSG institutions have rarely appreciated and incorporated in the operational models of modern local self-governance in rural areas. In case, after the dissemination of findings, Jharkhand does such initiative, it will be unique.

### **OBJECTIVES OF STUDY**

The present study was pursued in Santal Parganas by following the objectives given below:

1. To locate in the enacted laws and policies the recognition of TSG system (village headman etc.) and their roles.
2. To review from literature the status of traditional self-governance among specified tribal groups of Jharkhand.
3. To understand the role of TSG institutions in rural/ tribal development and management of local resources and affairs.
4. To find the role of TSG institutions in the protection or preservation of tribal territories, and in the delivery of social justice and equity.
5. To assess the extent of participation of weaker segments from tribal populations and of the women in the TSG system.
6. To identify the areas of coalition, overlaps, conflicts, etc. when TSG and Constitutional panchayat system will interface.

7. To assess the strengths and weaknesses of TSG institutions in changing environments.
8. To square up the policy implications of TSG for local self-governance in scheduled areas of Jharkhand in light of the findings under preceding objectives.

### **BRIEF REVIEW OF LITERATURE**

Unlike other provinces in India, except northeast, the Jharkhand has distinguished trend of documentation on tribes' traditional governance systems and the customary laws. This work has mostly been done Chhota Nagpur region of the state owing to the concentration of majority of academic institutions, researchers and activists in the region. Although a body of literature is available on the tribal movements in Jharkhand, which refers the traditional governance system of the tribes, but it does not elaborately speak about the TSG system in its true essence and its current status in modern context. On the customary law of Munda and Oraon, Jai Prakash Gupta (2002) wrote an extended account highlighting customary laws relating to adoption, inheritance, succession, land tenure, land alienation, forest economy, social offences and life cycle rituals apart from the Constitutional safeguards for Munda and Oraon. Similarly, Philip Ekka (2003) has elaborated the traditional system of governance among the Munda and Oraon focusing kinship systems, customary law and religion. His documentation is, however, not the cross-sectional account of the TSG institutions among the said tribes.

PEARL of Ranchi (PEARL 2001) conducted a study on TSG among tribes and participatory development. The study not only dissected the TSG among Munda, Oraon, Ho and Santals but also addressed contemporary questions of people's participation in the TSG and the TSG bodies' participation in government development programmes. About the TSG among Santals, the British officers began writing with their arrival in to Santal Parganas. British officials took official note of the TSG system among the tribes of this region right after 1855, and they began recognizing these institutions (see Chapter . 4). Beginning from Yule Rules 1856 to Santal Civil Rules 1946 and SPTA 1949, the colonial government continued recognizing the TSG of Santals. However, proper documentation of the customary law of the Santal was done by W. G. Archer in 1945 (Archer 1984), who was the Deputy Commissioner of Santal Parganas at that time. Yet, he failed to capture the 'codes', e.g. penal code, in Santal law, and didn't explain adequately the traditional Santal judiciary. It is the first time when Basudev Besra (2004) has documented the traditional Santal judiciary in his unpublished work. In Chapter.3, the section 'traditional Santal judiciary' has been subscribed, after permission, from his work and modified little in own context. Such documentation is invisible about the Paharia tribe, except few references in Santal Parganas Gazetteer (Chaudhury 1965). Paucity of literature,

however, is grave particularly in context of the TSG institutions' functional status in post-independence period.

Recently, Sudhir Paul (2003) has envisioned the participation of women in the local governance bodies. He quoted the responses of the tribal communities on the question of participating the women in *baisi*, which he found was negative. Tribal societies are still reserve on giving the space for the women in their traditional systems of governance, while Constitutional mandate of PRIs ensures one-third women in the local governance structures. He has scratched this dichotomy. Likewise, Ramesh Saran, P. K. Singh and S. P. Sahu (2003) surveyed in East Singbhum, West Singbhum, Dumka, Lohardaga, Gumla and Ranchi districts on Munda, Oraon, Ho, Bhumij and Santal about the status of their traditional self-governance. They canvassed the responses of respondents into degrees or yes/no taking several parameters like participation including of women, intra-community or inter-community relations with TSG officials, capacity of headmen, correlation and coordination between TSG and statutory panchayats, dispute settlement and effectiveness of TSG systems. This survey had been a nice quantitative assessment of the TSG institutions as seen by both tribals and non-tribals. Late recently, ELDF has completed a study concerning tribal self-rule in Jharkhand, which looked into the implications of PESA and the Jharkhand Panchayat Act 2001 in Scheduled Areas (PRIA 2004). The study has covered sketchy references of the TSG systems existing in Jharkhand.

In is the first time in Santal Parganas when the TSG system of Santal and Paharia has been tried to be examined in contemporary contexts of governance and development. The present account is more qualitative than quantitative.

## **METHODOLOGY & STRATEGY**

The methodology employed for conducting the present study is described step by step as under:

### **Sampling**

In Santal Parganas the districts like Dumka, Jamtara, Pakur, Sahebganj and Godda are mainly the Scheduled Areas where a substantial ratio of population belongs to the tribal groups. Among tribes the majority is of Santals, while good size of tribal population is of Paharia who mainly concentrate in Rajmahal hills. So for the purpose of studies we took both these tribes as our reference tribal groups; however, the whereabouts of Santal tribe dominated in the research framework. This was because of certain preordained reasons such as heavy erosion of self-governance

institutions among Paharia, scarce availability of documented material on Paharia, mass acculturation and detribalization of Paharia, and so on.

For sampling of the villages for conducting the primary studies several criteria were applied. First of all only 3 districts out of 6 in Santal Pargana were considered for the primary investigations. Cautiously, the villages in Pakur and Jamtara were selected based on the dominance or presence of Santal tribe in the villages. Yet, in principle 2 villages had to be chosen from each district; one village was in the vicinity of urban agglomeration, while the other had to be remote relatively away from urban influence. In Pakur district, one sampled village was to be remote, one close to town and one was moderately connected with the urban agglomeration. Similarly, in Dumka district, the villages chosen had to be Paharia villages or mix village with Paharia residents. The criterion for remote or urban connectivity was the same. Following the criteria of selection, the villages otherwise were sampled randomly. Nothing was purposive in selecting the villages. The names of the villages sampled are shown below:

Jamtara	<i>Raniganj</i> (adjacent to Jamtara town)	Santal dominated
	* <i>Ranitaand</i> (remote in Narayanpur block)	Santal dominated
Pakur	<i>Khaksa/Kalidih</i> (moderately connected)	Santal dominated
	<i>Udalbani</i> (remote)	Santal dominated
	<i>Kalajora</i> (connected with Pakur town)	Mix (Santal + Teli + Muslims)
	** <i>Kalhajor</i> (bungalow)	Pargana bungalow
Dumka	<i>Asanbani</i> (close to Kathikund)	Paharia dominated
	<i>Lakdaphaila</i> (remote)	Paharia dominated
	<i>Kumarbandh</i> (remote)	Mix (Paharia + Santal)

\* Filed investigations in this village could not take place properly due to logistic problem.

\*\* The village sampled for understanding the status of *pargana* only.

## Research Tools

Primarily the tools like semi-structured informal interviews, observation, group discussions, informal discussion, probes and secondary literature had been used for gathering the information on various attributes of research. During the course of study several categories of people — the local/tribal communities, key informants, tribal leaders, legal experts — were extensively interacted as and when they became accessible. A research framework was designed prior to starting the field investigations.

## Strategy

The plan for this study was designed in October 2004. The initially decided operational frame of the study was as mentioned below:

- I. Preliminary Rapid Search of Contextual Literature
- II. Preparation of Detailed Framework and Schedule/ Questionnaire/ Checklist
- III. Review of Existing Literature on the Subject
- IV. Locating the TSG System in the Laws & Policies
- V. Finalization of Framework and Schedule/ Questionnaire/ Checklist
- VI. Collection of Field Data
- VII. Report Synthesis
- VIII. Typing and Composing
- IX. Production of Draft Report
- X. Finalization of Study Report

The work on the research went on in line with the proposed operational frame. For the field investigations, help of few tribal leaders/teachers was taken as they not only interpreted the right meanings of the conversations with Santal community and TSG officials but also facilitated the discussions in some villages of Jamtara and Pakur district. They were Mr. Laskar Soren, Sunil Hansda, Sunil Hambrom and Karnal Soren. The present study undertook between November 2004 and March 2005. The important statements of and some of the discussions with the respondents had been recorded on the tape.

The report of the present study is an outcome of rigorous field investigations and long discussions held or observations made amid the tribal communities of sample villages. At various spots the names of respondent(s)/ village(s) have been quoted, while at the other the names have not been mentioned as because the text is not direct statements of

one but is the manifestation of different respondents in more than one villages. Somewhere the text/ narration is the outcome of general observations made in the sample villages. Analysis of the primary data or secondary information tended to constitute part of text of this report. The arguments put forward are away from any pretext, but they have been put in some contextual background. Yet, after all, viewing the limitations in which the study operated the chance of any political bias cannot be ruled out. This should be combined with the fact that no social research can be unbiased and free from researchers' political opinions. In Chapter.3, the section 'Traditional Santal Judiciary' has been subscribed, after permission, from unpublished work of Dr. Basudev Besra (Besra 2004), and the text is little modified. References are given at the end of the report.

## The Study Area

---

Known as 'homeland of tribes' and famous for perpetual struggles for tribal identity and rights Jharkhand was carved out of Bihar on 15<sup>th</sup> November 2000. Present new province is inhabited by 20.7 million population. The province stands with its histories of struggles and discourse of tribal awakening. The main cause behind various movements (past or present) for justice and accountability is the large imbalance in terms of distribution of resources. The province became front-runner in India in terms of availability of natural resources, yet the people of Jharkhand especially tribal and marginalized live in abject poverty.

Santal Parganas is very important composite of 6 districts in the Jharkhand, which lies between 23°40'N and 25°18'N latitude and between 86°28'E and 87°57'E longitude. The region extends over 5470 square miles. The region is an upland tract with a hilly backbone running from north to south. Rajmahal Hills rise abruptly from plains in the north forming a wall of 100 - 2000 ft, which juts out into the Gangetic valley and forces the Ganga river to bend to the east from Sahebganj the hills stretch south wards in an extensive range. A large portion of the range is included in the Damin-i-Koh, a Persian name meaning 'the skirts of the hills'. It has an area of 1338 square miles. Hills in Dumka district fall in Damin-i-Koh range.

Profile of the people in Santal Parganas, the study area, is interesting as this tract of Jharkhand ethnographically is rich with the aboriginals and the migrants. Earliest settlers of Santal Parganas are supposed to be the Paharias who have three branches — Sauria, Mal and Kumarbhag. The Sauria Paharia found a refuge in the Rajmahal hills, while the Mal Paharia had settled in the south-west and became more or less Hinduised. Kumarbhag are also found in the southwest. The origin of Santals in Santal Parganas may be reiterated. According to Buchanan Hamilton the disputes with the Birbhum zamindars drove the Santals into Handwe and Belpatta and the date of their settlement may be placed between 1790 and 1810. It was perhaps the later influx between 1815 and 1830 that brought the tribe to the notice of Mr. Sutherland in 1816 and of Mr. Ward (who demarcated Damin-i-Koh) between 1826 and 1833. These pioneers were soon followed by large number of their tribesmen, who between 1836 and 1851 flocked into Damin-i-Koh, where they cleared the jungles and settled (Chaudhury 1965).

Santal Pargana as a district came into existence in 1855. At the moment the region has 6 districts namely Dumka, Deoghar, Jamtara, Pakur, Sahebganj and Godda. Except Deoghar most of the area of the region lies in Sheduled Area. The study has focused in Santal Pargana region only.

### SALIENT ATTRIBUTES OF SAMPLE VILLAGES

Brief description about the sampled villages seems necessary from the fact that the TSG institutions function in a socio-economic milieu that

influences the efficiency of the institutions. Moreover, the socio-political environment also enables or disables the development to happen. In the same context, the attributes of the villages are shown as follows:

### Raniganj

Raniganj is situated in the backyard of Jamtara town where majority of the population belongs to tribal community. The village is splitted into 7 hamlets in total, surrounded by croplands with scanty irrigation facilities. People of the village apart from farming do labour works in the town. There are quite many educated families in the village who serve varied types of jobs and have external connections. The village is politically agile and the tribal families have significant awareness. The non-tribal families live in the village peacefully in healthier coexistence. Salient details of the village are as under:

<i>District</i>	:	Jamtara
<i>Block</i>	:	Jamtara`
<i>Panchayat</i>	:	Raniganj
<i>Villages in Panchayat</i>	:	Raniganj, Chakri, Loknayakdih, part of Duladih
<i>No. of Hamlets</i>	:	3 + 1 (splitted into 4) = 7
<i>Names of Hamlets</i>	:	<ol style="list-style-type: none"> <li>1. Manjhidih (hamlet of <i>manjh</i>)</li> <li>2. Paramnikdih (hamlet of <i>paramnik</i>)</li> <li>3. Kasiidih (hamlet of kaans, <i>Saccharum</i> sp.)</li> <li>4. Matkumdih (hamlet of mahua, <i>Madhuca indica</i>) <ol style="list-style-type: none"> <li>4a) Dahardih (hamlet of main route)</li> <li>4b) Sinjedih (hamlet of creepers)</li> <li>4c) Sasaudih (hamlet of bhelwa)</li> <li>4d) Kochadih (hamlet towards edge)</li> </ol> </li> </ol>
<i>Social Composition</i>	:	Except 5 households of Kurmis in Dahardih and 2 households of Ghatwals in Paramnikdih, only Santals of different clans live in all 7 hamlets.

### Ranitaand

Located both sides of the road the Ranitaand is big village fully inhabited by the tribal community. The topography is plain and the families work in agricultural lands mostly, however, the farming lands are not adequately fertile/improved. Yet, the situation of biomass availability is satisfactory on which the people's livelihood relies. Though the hamlets are located

at distance from each other, the people live in cohesiveness. Village, moreover, reflects least political cleavage. Salient details of the village are as under:

<i>District</i>	:	Jamtara
<i>Block</i>	:	Narayanpur
<i>Panchayat</i>	:	Ranitaand
<i>No. of Hamlets</i>	:	7
<i>Names of Hamlets</i>	:	<ol style="list-style-type: none"> <li>1. Jilimtaand (long plain)</li> <li>2. Rakhataand (tassar etc. trees protection)</li> <li>3. Chamadiha (habitation named after Chama Mahto)</li> <li>4. Kolhedih (long ago Kols inhabited it)</li> <li>5. Jaherdih (Jaher habitation)</li> <li>6. Sasaudih (bhelwa tree habitation)</li> <li>7. Jadudih (hamlet of magicians)</li> </ol>
<i>Social Composition</i>	:	<p>Hamlet wise composition is as under:</p> <p><i>Jilimtaand</i>: 29 households of Santals (Baski, Hansda, Hambrom)</p> <p><i>Rakhataand</i>: 7 households of Santals (Baski, Hansda)</p> <p><i>Chamadiha</i>: 7 households of Mahto (Gwala) and 8 households of Santals (Marandi, Kisku, Hambrom)</p> <p><i>Kolhedih</i>: 11 households of Santals (Soren, Marandi, Hambrom), 3 households of Naapit (barbers) and 1 household of Mahto</p> <p><i>Jeherdih</i>: 26 households of Santals (Marandi and Baski)</p> <p><i>Sasaudih</i>: 22 households of Santals (Murmu, Kisku, Marandi, Tudu) and 1 household of Karmkar</p> <p><i>Jadudih</i>: 31 households of Santals (Marandi, Hambrom)</p>

### Khaksa (Kalidih)

Khaksa is one of the biggest villages in Pakur district. The landscape in which the village is located is more or less plain and devoid of biomass. The hamlets are situated in circular shape having radius of over a km or two. There is, however, a heavy political clout in the village that enabled the village to be on political map of the state. People have bit high level of literacy and are connected with missionaries in few hamlets.

Agriculture is the main occupation of the families, however, some families are in government or private services too. For a sizeable population of the village the labour works are available in Pakuria and Maheshpur block headquarters. Political awareness in the village is up to the mark, yet clashes or disputes remain in low magnitude. Salient details of the village are as under:

<i>District</i>	:	Pakur
<i>Block</i>	:	Pakuria
<i>Panchayat</i>	:	Khaksa
<i>No. of Hamlets</i>	:	11
<i>Names of Hamlets</i>	:	1. Bada Khaksa 2. Jarhitola 3. Khantad Ghuttu 4. Nawadih 5. Bakrabil 6. Dandu Ghuttu 7. Kasitola 8. Jatang 9. Kalidih (3 sub-hamlets) 10. Chhota Khaksa 11. Kamartola
<i>Social Composition</i>	:	Village's all the hamlets except Nawadih and Kamartola are Santal dominated. In Nawadih, Lohars and in Kamartola the Kamar live.

### Udalbani

This village is located on the foothill enfolded by mass of natural resources — forests, streams, comparatively new crop fields, undulated hilly terrain with trees, immense biomass, etc. Socially it is homogenous village predominantly inhabited by tribal people. Political awareness is comparatively less, but the cohesiveness is very high. Principal occupation of the people is agriculture as most of the families have lands. Some families also augment their livelihood from forest produce. The village is least affected by the urban cultures. Salient details of the village are as under:

<i>District</i>	:	Pakur
<i>Block</i>	:	Amrapara
<i>Panchayat</i>	:	Udalbani
<i>Villages in Panchayat</i>	:	Udalbani, Amberjola, Mohulbuna, Dhawadangal, Barmasia, Jadakii, Asankhora, Chatrapahar, Talidih, Fatehpur, Bisanpur,

	Paharpur
<i>No. of Hamlets</i>	: 4
<i>Names of Hamlets</i>	: 1. Manjhitola (hamlet of <i>manjhî</i> ) 2. Talatola (middle hamlet) 3. Latartola (lower hamlet) 4. Chitaantola (upper hamlet)
<i>Social Composition</i>	: Hamlet wise composition is as under: <i>Manjitola</i> : above 50 households of Santals (Kisku, Soren, Murmu, Besra, Hansda, Hambrom) and 10 households of Madaiya <i>Talatola</i> : 27 households of Santals (Murmu, Soren, Kisku, Marandi) <i>Latartola</i> : 18 households of Santals (Kisku) and 1 household of Madaiya <i>Chitaantola</i> : 41 households of Santals (Hambrom, Marandi, Kisku, Murmu) 1 household of Paharia

### Kalajora

Not far away from Pakur town the village is located along the road. Santal community outnumbers, but the power lies with the non-tribal communities. Awareness level in the village is high and political cleavages are apparent. Main occupation of the families is farming, as plenty of cultivable lands exist there. However, good number of families goes on labour works in the town. Several educated families do serve in jobs as well. Salient details of the village are as under:

<i>District</i>	: Pakur
<i>Block</i>	: Pakur
<i>Panchayat</i>	: Kalajora
<i>Villages in Panchayat</i>	: Kalajora, Matiapahari, Baramasia, Rampur, Sibtala, Asandipa, Saherkol
<i>No. of Hamlets</i>	: 5
<i>Names of Hamlets</i>	: 1. Manjhitola 2. Naditola 3. Khardaantola or Ghututola 4. Chitaantola 5. Telitola
<i>Social Composition</i>	: Hamlet wise composition is as under: <i>Manjitola</i> : 24 households of Santals (Hansda, Hambrom, Tudu, Marandi)

*Naditola*: 62 households of Santals (Murmu, Soren, Kisku, Marandi, Hansda, Pauria)

*Chitaantola*: 25 households of Santals (Hansda, Marandi, Tudu, Murmu, Hambrom, Soren)

*Khardaantola*: 24 households of Santals (Marandi, Tudu, Baski, Soren, Hansda) and 1 household of Gond tribe

*Telitola*: 30 households of Sah (Teli) and Parmanik, and 30 households of Muslims weavers

### Asanpahari

Settled like a labour colony in the vicinity of Kathikund, Asanpahari is famous for Paharia residential school of the government. Only one peon from this village works in the school. Very few families in the village have cultivable lands; most of them work here and there. However, the people get relatively sufficient employment in or around Kathikund. The awareness is though high but the political linkages of families are weak. Salient details of the village are as under:

<i>District</i>	:	Dumka
<i>Block</i>	:	Kathikund
<i>Panchayat</i>	:	Damin
<i>Villages in Panchayat</i>	:	Kalhajhar, Badtalla, Bichhiya, Haripur Bada, Chhota Haripur, Dhuantaand, Dubadih, Telgamni, Asanpahari, Shibtalla, Asanbani, Dhankutta, Kerasol, Ratanpur
<i>No. of Hamlets</i>	:	4
<i>Names of Hamlets</i>	:	1. Asanpahari 2. Daharnangi 3. Rampur (Domtola) 4. Kolhabadad
<i>Social Composition</i>	:	Hamlet wise composition is as under: <i>Asanpahari</i> : 32 households of Mal Paharia <i>Dharnangi</i> : 25 households of Santals <i>Rampur</i> : 20 households of Dom <i>Kolhabadad</i> : 10 households of Mal Paharia

### Lakdaphaila

Situated remotely amid the forests downhill the village is exclusive of Paharia community. Village is single hamlet, having few families residing on the top of the hill. Crop cultivation though is one of the occupations, but most of the families pluck the sal foliage, and either sell the leaves in Kathikund or make *pattals* (leafy plates and cups) and then sell. For the domestic purposes the people extract the natural resources including edible materials from surrounding forests. Politically the village is uniform and activity is not as intense as in other villages. Salient details of the village are as under:

<i>District</i>	:	Dumka
<i>Block</i>	:	kathikund
<i>Panchayat</i>	:	Dalahi
<i>Villages in Panchayat</i>	:	Aamtala, Jamni, Chodhar, Lakdaphaila, Dudhia, Talpahari, Gandhreb
<i>No. of Hamlets</i>	:	1
<i>Names of Hamlets</i>	:	Lakdaphaila
<i>Social Composition</i>	:	Hamlet is predominantly inhabited by 25 households of Mal Paharia; 4 households reside on hilltop

### Kumarbandh

Village is located uphill amid the forests. Santal and Paharia tribes who coexist silently inhabit it. Prime occupation of the families is farming and forest produce collection subsists the living. Educational and awareness level is bit high in the village. Political awareness is also enough. Salient details of the village are as under:

<i>District</i>	:	Dumka
<i>Block</i>	:	Gopikander
<i>Panchayat</i>	:	Chhattarchuan
<i>Villages in Panchayat</i>	:	Chhattarchuan, Kumarbandh, Babupur, Jolo, Jadopani, Baratali, Katwidangaal, Jhoti Chhappar, Koyada, Kunwarpur, Sarvapani, Pujadih, Bakijor, Jhariapani, Champa Pahar
<i>No. of Hamlets</i>	:	4
<i>Names of Hamlets</i>	:	1. Chitaantola 2. Latartola 3. Manjhitola 4. Jejotola (hamlet of tamarind)

*Social Composition* : Hamlet wise composition is as under:

*Manjitola*: 24 households of Santals (Hambrom, Murmu, Tudu, Kisku) and 1 household of Kamar

*Latartola*: 8 households of Mal Paharia

*Chitaantola*: 10 households of Mal Paharia and 1 household of Kamar

*Jejotola*: 15 households of Santals (Marandi, Murmu, Baski, Soren, Hambrom)

Apart from above 8 villages where the studies were intensively carried over, 1 more village, Kalhajor, was sampled in Amrapara block of Pakur district. The village is located roadside and has bungalow where *parganait* is established. The current *parganait* is not the *manjhi* of the village, but he as *pargana* regulates and controls 19 villages in the vicinity.

## **Traditional Self-Governance among Santal and Paharia**

What is the tribe and how does it differ from other societies? It is the point where we need to venture from in order to understand the tribal's traditional self-governance systems. One has to look into the ancient history of the world and to distinguish the vantage points from where the bifurcation of tribal societies and the agrarian societies took place. From agrarian societies the industrial societies emanated. In the evolution of civilizations the tribal societies moved ahead only on the protectionist and preservationist path on which keeping the territories intact and developing systems of self-reliance were the priorities. While conserving lands, resources, culture and values the tribal societies did not diversify themselves as their counterpart agrarian societies did. On the contrary the agrarian and industrial societies not only diversified the production systems, economies, market relations and institutions but also widened their socio-cultural frontiers by exchange, assimilations and invasions. Nevertheless, both tribal and agrarian societies evolved and developed in two distinct environments having merits and demerits altogether. In the modern times, the tribal societies are supposed to be the 'backward' or 'undeveloped' societies, which are the incorrect notions. As a matter of fact, the 'backwardness' or 'undevelopment' or 'underdevelopment' is relative econo-centric term that needs to be examined critically.

Above is the reference point where from the traditional self-governance can be understood pragmatically and be established as a reality of tribal lives. In contemporary India too, first the features of tribal communities seem to be essential to know, because the TSG bodies govern the tribal lives in accordance of its nature — divinity and materiality. Some salient features of the tribes in Jharkhand, and that of counterpart modern civilization, are illustrated in Annexure-I. When the word 'tribe' comes in mind, it more often couples with the hill or resource-rich landscape. True, wherever the tribal communities live the precipitation of natural resources tend to occur both because the tribal lives rely upon natural resources and the natural resources remain conserved by virtue of tribal habitats amongst them. Explaining such characteristics of the tribes, the Dhebar Commission Report quoted that 'life in the hills, in spite of its attendant disabilities, has made the tribals hardy, self-reliant and vigilant' (Dhebar 1962). More precisely it sees in the 'rigour of climate..... and centuries of forest and mountain existence' the basis of a tribal economy is dependent upon 'land and forest, the twin needs of tribals' (ibid.). So the tribes have specialized economy at work. Climate and geology aside, the reasons for (forced) specialization are said to be bound up with a lack of functional specialization, or division of labour, in tribal society (Corbridge 2003). In the judgment of David Mandelbaum (1970), the communal and subsistence organization of tribal agriculture is part of the very essence of tribal society and what distinguishes it from caste society. Bailey (1961) argues that 'direct access to land [especially through clan membership] is the prime test of tribal organization. For Schermerhorn, tribal communities take the form of Durkheim's 'mechanical society'. Their organization is amorphous and diffuse; it is structured by ties of lineage (and family) which are made independently

of the more functional and market-oriented demands (Schemerhorn 1978). After all, tribal communities lack hierarchy. Tribal cultivator is endowed with an economic rationality, but not with the profit-maximizing mentality of the commercial farmer.

Nowadays at countless locations the tribes may be found living in degraded environments; it is their boundation to reside in such environments. The causes behind this degradation of the environments (and tribal economies) may be understood in Steve Jones (1978) quoting: "the value of the resources extracted from tribal areas greatly outweighs the funds employed by central and state governments for tribal welfare and development. There is substantial net flow of resources from the underdeveloped tribal periphery to the more developed non-tribal urban and lowland agricultural centre". Jones (1978) suggested that this outflow amounted to Rs. 400 crores in 1971-72, as against an inflow of well under Rs. 200 crores. Moreover, a tribal settlement now consists of non-tribal people. Living with clever non-tribal people for a pretty long-time, the tribes have become conscious of their rights and duties (PEARL 2001). In the traditional panchayats the tribes are now found keeping different views. Sometimes, it so happens that one group lives the accused person and the other group does not agree with that group and begins to dislike the accused person facing trial in the traditional panchayat (PEARL 2001). Yet, it needs to be seen the anatomy of political institutions of Santal and Pahlaria in Santal Parganas.

### SANTALS AND THEIR POLITICAL ORGANIZATION

The third largest tribal community of India, Santals are divided into two groups namely Deswali Santal and Kharwar or Safa-Hor. The Santal migration started after the famine of 1770 AD into Birbhum (West Bengal) and Santal Parganas. The Santal are justly described as the largest, most integrated and possibly the most resilient tribe in eastern India. The establishment of colonies in Damin-i-Koh, and their *hul* (rebellion) of 1855 are two important events in their history. Belonging to Austro-Asiatic family of languages, the Santhali, which Santals speak, is written in Olchiki script mainly. Santals are divided into 12 patrilineal totemic clans (*pari*) namely Hansdak, Murmu, Kisku, Hambrom, Soren, Marandi, Tudu, Baski, Besra, Pauria, Chonney and Bedia, which are further divided into several *khunt* or subclans (Singh 1990).

Settled agriculture is their main occupation. They also work as labourers, school teachers, doctors, nurses, lawyers and government employees. Their general rate of literacy is low (which varies district to district, block to block and village to village), but there are some well-qualified Santal persons who have excelled in their respective fields. Inter ethnic linkages maintained by them are often restricted to the economic sector. The active areas of inter community linkages may be limited, but it

cannot be avoided that no tribe other than Santal has contributed so much to enrich the culture of Santal Parganas.

The Santal are among the first who waged peasant war, called locally as *hul* that shook up colonial administration in 1855-56. It was directed against moneylenders and middlemen and was waged in defense of tribal rights in the land. A separate territorial administration for the Santal Parganas was established as a result of the uprising. Major sections of Santal became involved in the Jharkhand Movement from 1940s onwards (Ekka 2003).

Santals have their own 3-tier community council. The village council (*morehor*) is headed by a *manjhi*, who is assisted by other council members in looking after village affairs. Ten, fifteen or more villages constitute the jurisdiction of a *pargana*, headed by a *pargana* or *parganait*, who also is helped by his councilors to look after the inter-village affairs. The highest political authority rests with the *khunt* council (*lo bir*), headed by a *dehri*.

### Village Council (*more hor*)

*Whenever we call the meeting, everyone, except who is absent in the village, attends the meeting.*

— Mr. Surja Murmu  
(*Manjhi* of Kalidih hamlet of Khaksa village)

Traditional governance system (TSG) among Santals recognizes the village as the smallest unit or first tier of the structure. Village community is the first assembly of the tribal governance system. It ensures that the principles of law are followed as it maintains civil rights and in a number of cases it acts as a court of registration. Nine (number not fixed, however) officials control the whole set of governing the village affairs, who rather work as servants of the community. Chieftain of the village is the *manjhi*. His duties are multifarious as his position is that of a hospitable disciplinarian and a communal custodian. In return of his service to the community he is given wider respect.

Wherever the TSG body among Santals is fully operational, the *manjhi* delivers following responsibilities:

- He maintains the *manjhithaan* or founder's shrine and administers the *jaherthaan* or the sacred grove.
- In case the *jaherthaan* gets thin and degraded, and there is no alternative *jaherthaan* in the village, he has to plant there the saplings.
- If the *bonga* tree dies in the grove he arranges for the *naeki* (priest) to shift the old *bonga* with a new tree, and, if necessary, asks to change the grove.
- He distributes the dead wood.
- He ensures the festivals' arrangements and participation of every household not only in the festival but also in all rituals of birth, death and marriage.

*We organize the meeting of TSG body on Sunday so that maximum people attend it. Even then Muslims and Sah do not attend the meeting, though the godait communicates well in advance.*

— TSG Officials  
of Kalajora

- Following the epidemic in the village, he summons a special meeting and arranges special sacrifices.
- When a dispute arises or a tribal offence is committed he has to summon the village meeting and presides at its discussions.
- He administers with personal care all avenues of rural life expanding over land, water, biomass, community resources, grazing grounds, ponds, livestock, social relations, marriages, family lives, births, deaths, emergencies, etc.

*Manjhi* is supported by the next official called *paramnik* who not only acts as deputy *manjhi* but also as chief judicial authority. In event of judicial proceedings in *baisi* he gives final verdict. *Manjhi's* second associate is the *jogmanjhi*, who acts as *custos morum* to the young people of the village. He primarily regulates the adult behaviour of youngsters. Two other officials — *jogparamnik* and *godait* — are also the important links in the system. *Jogparamnik* assists the *paramnik*. The *godait* acts chiefly as *manjhi's* orderly and calls the villagers together at his command, and also collects sacrificial fowls for the village sacrifices.

**Box . 1: Structure of TSG Body at Village Level**

Male Officials	No.	Female Officials (ex officio)	No.
<i>Manjhi-hadam</i>	1	<i>Manjhi budhi</i>	1
<i>Paramnik</i>	1	<i>Paramnik budhi</i>	1
<i>Jogparamnik</i>	1		
<i>Naeki</i>	1		
<i>Godait</i>	1		
<i>Jogmanjhi</i>	1	<i>Jogmanjhi budhi</i>	1
<i>Lhassersahl</i>	1		
<i>Kudum naeki</i>	1		
<i>Bhoddos</i>	> 1		
Senior Person*	1		
<i>Dhupu manjhi**</i>	1		

\* If all officials are between 18 and 21, then 1 senior person is nominated to guide them. Otherwise, no such person is appointed.

\*\* Sometimes he is placed on a hamlet as assistant of *manjhi*. He is other than *bhoddos*.

Another two officials hold important positions in the village council. They actually minister religious performances. Those two are *naeki* (principal village priest) and his assistant the *kudum naeki* (field priest). The *naeki* officiates at all public festivals and performs the sacrifices. In some villages one official called *lasser sal* or *lasser tengoi'* is also found who normally acts as public relations officer of the community. Post of

*bhoddo* (or *bhogdo* in Damin area) is of profound significance. In each hamlet of the village at least one *bhoddo* is posted. He is representative of *manjhi* for the particular hamlet. In case there is a work, incidence or observation of any nature in the hamlet, the *bhoddo* looks after and handles the work/ situations until *manjhi*, *paramnik*, *naeki* reach the hamlet. When the higher officials arrive he assists them in delivering the tasks. Due to many number of hamlets the higher officials might get late. Sometimes, if there are marriages in two hamlets simultaneously, *bhoddos* help look after the work in one hamlet. Though looking after the marriage affairs is the function of *jogmanjhi*, actually it is the *manjhi's*

order for *bhoddos* to look after the work till *manjhi* or *jogmanjhi* reaches there.

Moreover, the important fact must not be ignored that the functions of all associates of *manjhi* may vary village to village. One official may be

**Box . 2: Different Departments and Responsible Officials**

Executive	<i>Manjhi, Jogmanjhi, Bhoddos</i>
Judiciary	<i>Paramnik, Jogparamnik, Lasser sal, Manjhi (ex officio)</i>
Beet (Finance)	<i>Jogmanjhi, Jogparamnik, Godait, Manjhi</i>
Religious	<i>Naeki, Godait, Kudum Naeki, Manjhi</i>

given additional responsibilities, and one person may hold more than one position at a time. It is noteworthy that the officials keep vigil on all affairs in the village and get reports regularly. Every

information is collected, be it of birth, death, theft, arrival of outsider, infection of ghost, disease, epidemic, and so on.

*Election or Appointment of Officials*

In *magh* festival (during January - February) the villagers assemble together after a sacrifice; the *manjhi* resigns from his post to village people; all the other officials also resign their posts to one another as representing the village, and the villagers surrender their land to the *manjhi*, saying that they will keep only their old house sites and their hutments. If someone had worked unsatisfactorily, he is replaced in this annual assembly; otherwise the preceding official sustains the office. After a few days everything is *pro forma* given and taken back again following the oath rituals. It is the *naeki* whose election takes place every fifth year. If someone dies the vacated seat is only filled in *magh* festival.

The posts are hereditary at the discretion of village community. None can remain on the post without full consent of all the villagers (no concept of majority or minority). On the day of election the consents of everybody from among village community is sought; if someone's voice tones down, he is intentionally asked to clarify his opinion. If someone raises an objection, it is systematically inquired, verified and adjudged before final oath of an official.

*Duties to the Village*

Besides, acting as a public owner, the village community is also a source of taxation and conscription. As a member of the village each household must pay the prescribed officials' fees and contribute to the festivals. He must also offer his labour in repairing village roads, *bandhs* and tanks, assist in making communal wells/ tanks, and play his part in repairing the *manjhithaan*. He must attend village meetings, assist in village councils and, if appointed an official, he has the duty to serve. He is, as it were, member of a mobile militia. If a hunt or fishing expedition is organized,

*We should withstand the customs and traditions; this is good. This TSG system should continue not because it is perpetuating for centuries but because it is successful in managing the community affairs. The officials are capable of delivering services to the community and of caring each family and individual.*

— Ms. Sobha Soren  
(Raniganj, Jamtara  
working in Mahila  
College, Jamtara)

he is expected to join it. He must attend all rituals, ceremonies and festivities.

The people themselves are the final authority; the officials are only their representatives appointed to perform certain duties, to keep order and to represent them generally. The TSG officials cannot do what they like.

### *Changes Being Observed in TSG System*

At an instant look first of all what is seen changed in the tribal communities is the lifestyle of the youths, which has invariably changed as the alien cultures penetrated the villages and affected the youngsters first. As a consequence there is always an erosion or decay in the tribal society particularly adjoining the urban areas. The market has succeeded in penetrating the villages particularly in the vicinity of urban agglomerations. These cultural changes in the villages have direct bearing on the efficient functioning of TSG bodies.

With the change in the people's socio-cultural and economic behaviour in the tribal villages, some elements can today be found who try to invert the right things. For example, they do not participate in the meetings called upon by TSG body; if they participate, they attempt to disturb it. Even in *jaher* meetings the majority participates, but still some people do not attend the same. Conversion into Christianity has caused considerable erosion of TSG system as the people with changed beliefs show less respect to the officials and rituals. For instance, the Christian Santals do not eat pork or beef; similarly, a lot many values have changed. Taking the belief systems — *bithin* (native religion of Santals) and Christianity — the intra-community conflicts are common, which essentially affect the operationalization of TSG bodies.

### Pargana

This is the Santal upper court next to village council. This body of court is called as the 'council of five *manjhis*' and it consists of the village headmen belonging to neighbouring villages. It primarily deals with extra-village disputes, and it adjudicates in all matters that the villagers themselves fail to decide. It also acts as an appellate court from village decisions. Like village council, the five *manjhis* council is the final source of local power. Particularly after *hul* (Santal rebellion) of 1855-56 the British government in Santal Pargana adopted the *pargana* body and modified it in their interests. In the modified form the system started working in following two ways:

- A) The system of Damin areas differs from that of non-Damin areas. In Damin areas the local unit for Santal law is a 'bungalow' or group of 10-30 villages, having its council of *manjhis* which in turn is assisted by three permanent officials. The chief or standing

*At the moment the parganas are more or less inactive. We need to revive them, then cases would not go to police station or court from the village council..*

— Mr. Kalidas Murmu,  
ex-mukhia of  
Khaksa, Pakur,  
and ex-MLA.

president of council is the *pargana* or *parganait*. He administers all the judiciary functions within the territory of bungalow. In carrying out his duties he is assisted by a *deshmanjhi* and a *chakladar*. *Deshmanjhi* is virtually a *paramnik* who assists in revenue collection, takes an active part in hearing disputes and is generally the *pargana's* deputy. A *chakladar* is a regional *godait* who summons the *manjhis*, calls the parties and assists in executing the decisions of the council. Interestingly, the *chakladar* may be a non-Santal or non-tribal, while former two officials have to be Santals only. The *parganait* holds revenue powers under which he advises the *pradhans* (headmen) and assists them. In turn he receives 7 percent commission on the revenue collected at bungalow, and 3 percent commission from each of *pradhan* on collection of his share of revenue.

*I saw a tremendous change during over half a century.*

*Enactment of statutory panchayats affected the TSG institutions greatly. Now the cases go to police station and court involving delay and over-expenditure.*

— Mr. Singrai Hambrom  
(Parganait at  
Kalhajor  
bungalow)

Appellant approaching the council of five, the *pargana* calls upon the *manjhis* of all villages at bungalow. All *manjhis* of the bungalow are asked to attend the meeting. There is not however any strict quorum and while there should normally be at least five *manjhis* present a council can meet either less or more *manjhis* present.

- B) For outside the Damin areas, there are again two types of arrangements. In Pakur district, *parganas* function as tribal leaders and are assisted by *deshmanjhis* and *chakladars*. They are recognized and controlled by SDO in the same way as *parganas* in Damin but they do not possess any revenue, police or execution powers as conferred by district administration. Their sole functions are to act as presidents of *manjhi* councils and as spokesmen of their areas. While in remaining Santal areas of the Santal *Parganas* i.e. Sahebganj, Godda, Dumka and Jamtara districts, the unit of villages is the *sardari* circle. If the *sardar* is a Santal he is sometimes the *pargana* also. But the office of *sardar* is totally different from that of *pargana*. *Sardar* is elected every five year, and can also be a non-Santal, whereas the *pargana* is the permanent president of the *manjhis* council.

*Parganait*s in Damin and remaining Pakur district and *sardar* in rest of Santal *Parganas* generally got *maan* lands from British administration, while *pargana* in remaining areas had obtained the same from village communities.

In the modern times, the erosion of *pargana* institution can be attributed to invasion or imposition of alien panchayat bodies (*mukhia* and *sarpanch*). *Pargana* system is affected severely to the level that various *manjhis* even do not know their *pargana*. In contrast, however, some *parganas* are still active and relevant. For instance, *pargana* of Kalhajor in Amrapara block of Pakur headed by Singrai Hambrom is very much functional. Singrai Hambrom was elected in 1948 by the *manjhi*

(*pradhans*) of 19 villages in the jurisdiction of the bungalow. He informed that the cases quite often are redirected to him by the SDO and police stations. Simultaneously, he brought to light the facts that the government forced the TSG institutions into extinction especially from the regime of Janata Party government. Government several times tried to abolish the *pradhans*. Recently, the chief minister of Jharkhand, Arjun Munda, called upon an assembly of *pradhans*, but he also didn't recognize the *parganait*s and didn't call them. However, the tribal people themselves should also be held responsible for the decay in TSG institutions.

### PAHARIAS AND THEIR POLITICAL ORGANIZATION

Paharia tribe is mainly of two types: Mal Paharia and Sauria Paharia. Mal Paharia are presently concentrated more in the plains of non-Damin areas of Rajmahal hills in districts of Dumka, Jamtara, Godda, Deoghar and Pakur. Racially they belong to Proto-Australoid groups. Chief economic activities of Mal Paharia is agriculture, collection of NTFPs, labour works and alike. Mal Paharia characterize their lands into four classes namely *sem*, *tikur*, *dem* and *gharbari sem*. Fertile land is *Sem* that produces cereals and staple crops. Moneylenders and coexisting castes have exploited them to the extent that they face crisis of survival today. Education level among Mal Paharia is minimal (Singh 1990). Mal Paharia has 12 clans namely Dahri, Ahadi, Pujahar, Sing, Girhi, Kunwar, Dhanuk, Maal, Paatar, Laya, Manjhi.

Sauria Paharia (Maler) are the first inhabitants of Santal Parganas, currently residing in north of Rajmahal hills. They speak Malto language and live on hills or hill slopes. Their number is fast dwindling in Jharkhand. Right of property is vested in father. Presently, their economy rests upon resources like hill cultivation, forest, livestock, products like tussar silk cocoons and wild fruits. Due to the restrictions imposed by state and ever-shrinking forests and hill resources their livelihood is under stress and survival is at stake. Political authorities mark the boundary of a village in the hilly areas. Dominant development models of change operative through the introduction of administrative machinery, democratic experiment and concept of welfare have definitely broken the stagnation of Sauria Paharia community. They are certainly passing through a phase of transformation (Chaudhury 1965).

#### Village Council

The TSG body at the village of both Mal Paharia and Sauria Paharia are more or less same. Traditional panchayat plays qualitative role in settling disputes at family, village and inter-village level. Among Mal Paharia the village head is *dahri* assisted by *godait* and *dewan*. While among Sauria

Paharia the *dahri* assisted by *nayak* and *godait*. *Dahri* also acts as head priest.

The *dahri* presides over the council of elders. The *godait* summons the council meeting and is to put the case before the *dahri* and the members. For crimes like adultery the council panchayat levies fines on the accused. Out of the fines thus realized the *dahri* gets some part, other members get few and the sufferer gets remaining amount. Of the amount of fines thus realized, a fixed sum realized on behalf of members of the council is left reserve with the *dahri* and usually spent on some ceremony or worship on behalf of entire village. Cases beyond the control and power of the village council may be sent for decision of the higher panchayat (inter-village) presided over by *sardar*. Occasionally they are also referred to the courts of Government.

### Parganait and Sardar

The TSG body above the village council is the *parganait*. For the purpose of revenue administration the British rulers assigned the revenue powers to *parganait*s and made them *sardars*. The *parganait* or *sardar* is to be assisted by *chakladhar* and *chaukidar*. In post-independence period the traditional offices of *sardar* have been taken over by the government for successful running of administration and collection of revenue. In the present set-up of administration the government itself has taken up the collection of revenue. The *parganait* may be Santal or Paharia and might have jurisdiction over villages inhabited by Santal, Paharia, non-tribals or mixed populations. On the other hand the *sardar* can be a tribe or non-tribe.

### *Changes Being Observed in Paharia TSG Bodies*

TSG system of a tribe solely depends on the socio-cultural conditions — how safe the territories are. Paharia is one of the primitive tribes in the country that passed through heaviest burden of assimilation, acculturation, detribalization and host of development pressures. Invasion of Santal onto erstwhile Paharia's native lands of Santal Pargana is also attributed to mass annihilation of Paharia identities. British specially targeted Paharias and heavily assailed (Riyaz 2003). In post-colonial times the Paharia had been considered Hindu by the government functionaries, and in recent years they have been converted into Hindus by the Hindu missionaries, as the Christian missionaries did with Santals and Mohulis for making them Christians. As a result the TSG bodies of Paharias either weakened/eroded at some places or completely died at the other. In the villages particularly that came in the influence of non-tribals and or urban centres the TSG bodies are difficult to even trace. Asanpahari is among the sample villages where TSG has lost its cognizable shape.

Matter turns serious when the religious events disappear from being celebrated. Paharia community in the name of great God, "Bhuin Dev", had to celebrate a feast every 12 year. Located in Kirsol village, this deity has a jurisdiction area of 51 villages including Asanpahari. Reportedly, the last festival was observed in 1965-66; since then this institution has almost died, as the new generations are not able to organize the feast. The villagers of Asanpahari and Lakdaphaila witnessed the preceding observations.

### TRADITIONAL SANTAL JUDICIARY

Santals have evolved a well-defined institution to regulate the members of the community and to ensure discipline among them. In executive matters the *manjhi* enjoys the additional assistance from his deputies, the *jogmanjhi* and the *paramnik*. In judicial functions the *bhoddos* or the village elders function as the jury of the village court. *Manjhi*, sitting as the presiding judge at a village court, has ample authority to award punishment to the wrongdoer or to impose fine on him on the advice of the *bhoddos*. His orders are binding on the villagers, men and women alike. If a fine is imposed on any of the villagers, he is bound to pay the fine to the *manjhi* in the presence of villagers, or he may request for grant of time to pay the fine. But whenever the time is granted to the convict, he is required to pay the fine in the presence of the village court (assembly) or before some witnesses to the *manjhi* at his home. The amount so realized becomes the property of the village community. The *manjhi* is only the custodian of such property. Ultimately, the village community decides how to spend the fine so collected. In most cases, the villagers prefer to buy some cheap consumer articles such as salt, and distribute the same among all the villagers equitably. If the amount is larger, the village community prefers having a feast in which all men, women and children (including convict's family members) take part.

This institution of justice has been prevalent among the Santals since time immemorial. The elders in the community believe that this institution has been formulated at the mythological *Chitri-Ghutu*. The myth tells us that at *Chitri-Ghutu* the Santal elders sit in deliberations for a long time to deliberate on and to formulate the mores and rules of their social institutions for the Santal community, be it within the country or migrated from elsewhere. These simple rules of justice prescribe for a four-tier judiciary for the Santals. The apex court being the *lo bir baisi*, while the lowest court is that of *manjhi*. Thus, from lower tier to the upper tier the Santal judiciary consists of:

1. Manjhi Baisi
2. Mapanjhi Baisi
3. Pargana Baisi
4. Lo Bir Baisi

These Santal traditional courts have well defined set of rules and also a compact jurisprudence defining offences and prescribing punishment for each of them. The jury members are well versed in the Santal Penal System. Thus the administration of justice is a smooth affair among the Santals. Moreover, the village community too is fully assessed of Santal jurisprudence. Therefore, they are able to visualize the punishment for a particular offence. This keeps a balance in awarding punishment to the wrongdoer. The jury and the presiding judge are bound to adjudge the offender in the accepted manner and not otherwise. They cannot impose fine or award punishment beyond the prescribed parameters.

### The Manjhi Baisi

The *manjhi* sits in the village court as the presiding judge. *Baisi*, in Santali, means 'committee'. Conception behind this institution is to administer justice on a democratic basis. *Bhoddos* are a group of elderly gentlemen of the village; among them some have worked as *manjhi*, *paramnik*, *jogmanjhi* or *godait* in the past and are considered to be men of integrity. It is hoped that in their hands no villager would suffer unjustly and that no injustice would be meted out. The villagers are witnesses to the deliberations of the court and thus it is doubly ensured that the offender is punished as per norms set down for the purpose.

*There was a case from Khaksa of Daniel's daughter. Once the case could not resolve in the village it went to police station. Police too could not resolve it, though both the parties heavily bribed. Then, lately, it came to me and the case resolved in our baisi.*

— Mr. Suleman Hambrom  
(*Manjhi cum pradhan*  
of Khaksa village)

The complainant has to inform the village *manjhi* about his/her grievance. Hearing the complainant, *manjhi* asks the *godait* to call a meeting of villagers. Villagers having assembled and the *manjhi* taken his seat, one of the *bhoddos*, then, asks the *manjhi* as to why he has summoned the 'village five' (*more hor*) to this meeting. Then the village *manjhi* replies in a ritualistic manner to the enquirer "one of our fellows has stumbled and fallen, he has got some injuries on his person and mind; so he wishes to put his sufferings before the 'village five'. That is why I have summoned you all to soothe him...". Once this ritual has been completed the village priest puts two sticks before the *manjhi*. The sticks are smeared with vermilion at five places and five tablets of cow dung from a jet black cow or five copper coins are put in front of *manjhi*. Then the *manjhi* invites the complainant to state his/ her case before the *bhoddos*. Complainant then comes in front of *bhoddos* and states whatever his/her complaint is. After hearing the complaint, *manjhi* asks him/her if he/she has any witness to produce. If the witnesses are there, he/she tells their names. After so naming the witnesses, the complainant retreats to his/her seat. It is now the turn of the accused to state his/her defense as to whether he/she accepts the charge or not. If the *bhoddos* are not satisfied with the refutations made by the accused, they advise the *manjhi* to take evidence of the witnesses. The village priest is asked to administer them the traditional Santal oath in front of the village community. Only after such oath taking the witness is asked to narrate the event as he/she has seen with his/her eyes.

On evidence of each witness thus taken, the *manjhi* asks the five *bhoddos* to have a discussion among them, commonly known as '*bengar koca*' as to the guilt of the accused. *Bhoddos* walk to a little distance away from the crowd, take their seat and evaluate the statements of the complainant, the accused and the witnesses. Every aspect of the incident is minutely evaluated, as well as the character of the complainant, the accused and the nature of offence committed and the effect thereof on the community etc. Then they arrive at a consensus is conveyed to the *manjhi*. Now it is time for the announcement of the judgment, 'guilty' or 'not guilty'. If the accused is adjudged guilty, the punishment is announced by the *manjhi* before the assembly. If any villager has any objection to verdict he has every right to be heard. Such objections may relate to the amount of the fine imposed or nature of punishment awarded. The *bhoddos* then reconsider the judgment in the light of the objection raised and their amendment to the *manjhi*. The *manjhi* announces the amended punishment before the assembly. The amended judgment is, in most cases, acceptable to the assembly as it concedes to the wishes of assembly.

The next step is the imposition of penalty on the convict. This is done by several ways. *Manjhi* authorizes some persons of the village assembly to execute the verdict of the court if any physical punishment is awarded to the convict. In cases of fine, the village *godait* is asked to collect the fine from the convict and to produce it before the assembly.

The cases over which the *manjhi baisi* has original jurisdiction are the following:

1. Family quarrels (*mit' torphan jhogra*)
2. Affray (*bar torphan jhogra*)
3. False accusation (*sui sagat jhogra*)
4. Sexual offences
5. Other nuisances

*People do not go to police station, they settle disputes here only. Disputes of many types: land, family life, livestock, encroachment, other.*

— Villagers of Udalbani

However, according to Karnal Soren, an eminent teacher, every social relation in the village has to be validated by 'council of five'. At least *manjhi* should be informed. Village has otherwise a set-up in which the things communicate across very quickly. Similarly, Laskar Soren, a *pundit* of TSG affairs, enlightened that *manjhi-hadam* receives the cases of multiple natures, who then generally refers to other associate officials. It depends on the case's category as to whom it would be referred. Say, cases relating to land would be referred to *paramnik* who is head of judicial department. Case pertaining to unmarried girl or boy goes to *jogmanjhi*, whereas that of married one is referred to *bhoddos*. *Manjhi* remains attached to every type of the case.

Regarding the punishments, the *manjhi baisi* is by tradition empowered to award some punishment to the offender. These deterrent punishments

are aimed at reforming the guilty person. Following types of punishments are normally in practice:

1. *Kaskom hadi dand* (fine)
2. *Huka chilim bar* (excommunication)
3. *More pindha parom got* (see off to five ridges)
4. *Jelen' dahar te taram* (walk on the long road)

If any person is aggrieved by any punishment awarded by the *manjhi baisi* he is free to appeal to the next higher court i.e. *mapanjhi baisi*.

### Mapanjhi Baisi

The *mapanjhi baisi* is the first appellate court in the Santal judicial hierarchy. It consists of five to eight *manjhis* of the locality. All these *manjhis* sit as a bench in deciding any issue before them. Normally the *mapanjhi baisi* hears cases in appeal only. A *mapanjhi baisi* can be summoned by any aggrieved person or on a reference by a *manjhi* of the locality in order to decide any complicated matter, which the *manjhi* concerned is unable to decide to the satisfaction of the village community. Often the *bhoddos* assisting a *manjhi* in a *manjhi baisi* themselves recommend to the *manjhi* to refer any particular case to the *mapanjhi baisi* for disposal. *Mapanjhi baisi* has original jurisdiction if the offender belongs to one village and commits an offence in another village.

Any *manjhi* willing to summon a *mapanjhi baisi* sends his *godait* to the nearby *manjhis* with the message of summoning a *mapanjhi baisi* to decide any particular case. Other *manjhis*, if agree with the first *manjhi's* request to summon a *mapanjhi baisi*, in turn, assure the *godait* that they agree to the proposal. After sometime i.e. three to four days, the initiator *manjhi* is informed as to the acceptance of his proposal of summoning *mapanjhi baisi*. Only then a date is fixed for the sitting of the *mapanjhi baisi* as well as the venue. Once the date for the sitting of *mapanjhi baisi* is fixed, all the concerned *manjhis* inform their villagers about the sitting of the *mapanjhi baisi*. Sometimes, invitation is given by beat of drum in local markets or by circulating sal leaves in all nearby villages.

In the *mapanjhi baisi* five to eight *manjhis* of the locality sit as judges excluding the *manjhi* on whose request the sitting is arranged. Normally a field with shade-providing trees is chosen for the court. People in hundreds, often 2-3 thousands, come to watch the proceedings. On such occasion the *bhoddos* of all the villages are specially invited to assist the *mapanjhis* in arriving at conclusion. To start the proceedings one of the *bhoddos* asks the *mapanjhis* as to why they have been summoned to this assembly. The presiding *manjhi* then replies to the enquirer that certain *manjhi* of this or that village has a complaint for which this court has

been summoned. The presiding *manjhi* requests the complaining *manjhi* to state his case before the *mapanjhis*. After so stating his case the complaining *manjhi* takes his seat back. The presiding *manjhi* then calls the *bhoddos* to discuss the matter among them. The *bhoddos*-in-council requests the *bhoddos* of the complaining *manjhi*'s village to state the case before the committee of *bhoddos* (nearly 30 to 40 in numbers). They discuss the matter among themselves.

The *mapanjhis* also invite the complaining *manjhi* to sit with them. He discusses the case with them. If need be, they summon additional witnesses and hear them afresh. After discussing the case thoroughly the *mapanjhis* call the *bhoddos* and ask them if they have arrived at a consensus; two *bhoddos* come before the *mapanjhis* and tell them their conclusions. If the conclusions are in agreement with their own conclusions, the presiding *manjhi* announces the judgment to the crowd. If the crowd present ratifies the finding, the sitting comes to an end; but if anybody from the crowd raises objection on some point, *mapanjhis* ask the *bhoddos* sit together and consider the objection is raised. After deliberation they recommend the final order (to be passed) to the *mapanjhis*. Once again the presiding *manjhi* announces the final verdict on the case. It is judgment, which cannot be altered.

If the dispute is between two villages and one village is declared guilty the *manjhi* of the village is asked to pay fine on behalf of the village community. If the erring villagers willfully absent themselves from the *baisi*, strict restrictions are imposed on the entire villagers which included boycott of any marriage relationship or sharing common rivers, rivulets, hunting, etc.

### Pargana Baisi

*Pargana baisi* is the next higher appellate court among the Santals, only lower to the *lo bir baisi*, which is headed by the *pargana* of the area. *Pargana* is a social office of the Santals that is perceived in great esteem by them. *Pargana* is considered as the chieftain of the Santals of a particular tract. A *pargana* commands authority over a number of villages ranging from 10 to 160. He is elected by all *manjhis* of the area. Earlier the *parganas* were the spokesmen of their people as the rulers had no direct contact with the Santal population. The *parganas*, as representatives of the people, were in touch of the rulers — pre-colonial, colonial and post-colonial. British enacted some rules for the guidance of the *parganas* under Mr. A. W. Cossarat in 1880. They also fixed half a kg of ghee for the *pargana* to be collected from the people for their maintenance from each village in his domain. A commission of 12 percent on the collected rent was also set apart as the remuneration of the *pargana*. Apart from this compulsory collection the people paid him certain fees (Rs. 5 to Rs. 15) as *salami* in those days.

Whenever an appeal is preferred before the *pargana baisi* the appellant *manjhi* meets the *pargana* and acquaints him with his problem and his desire to appeal to the *pargana baisi*. *Pargana* gives him a patient hearing. On being satisfied he asks the *manjhi* to appoint a date by which he (*manjhi*) will be able to bring all concerned persons before his court.

The *chakladar* goes to them *manjhi* of the opposite party and informs him about the appeal preferred by the appellant *manjhi* as well as the date so fixed for the hearing of the appeal. Besides the respondent *manjhi*, ten other *manjhis* are also invited to watch the proceedings as observers. The contesting *manjhis* and the observer *manjhis* reach *pargana's* place on the appointed date accompanied by their fellow villagers. Other people are also invited to witness the proceedings. At least one thousand people assemble at a *pargana baisi*. On arriving at the *pargana's* village the *manjhis* are given warm reception. It is a ritual to accord customary reception to the *manjhis* at the *pargana's* village. It is rather a festive scene than dry court proceedings. All the *manjhis* are taken to the court in a procession led by *deshmanjhi* and are escorted to their respective seats. Then comes the *pargana* with his aides led by *chakladar*. *Pargana* wears the customary attire i.e. a turban on head, and holds a long cane stick. The turban and cane stick have been symbols of authority. *Pargana* is welcomed by the *deshmanjhi* and all *manjhis* present.

The customary sitting arrangement of the *pargana's* court is worth noting. *Pargana* sits on an elevated platform, and on the pedestal of the seat of the *pargana* sits the *deshmanjhi* and the *chakladar*; five observer *manjhis* sit on the left of the *pargana* on cots, the other five on the right of the *pargana*. The appellant *manjhi* and the respondent *manjhi* sit in front of the *pargana* at a distance of 10-15 feet. The villagers who have come to witness the court proceeding stand around these dignitaries at a distance in a semicircle.

After *pargana* takes his seat on the elevated platform the *chakladar* calls out the name of appellant *manjhi* to state his case. The appellant *manjhi* sitting in front of *pargana* stand up and narrates his case. Hearing the details of the case the *pargana* asks the observer *manjhis* as to their opinion on the case of appellant and the respondent *manjhi*. The observers discuss the case among themselves and, arriving at a conclusion, appraise the *pargana* with their opinion. Meanwhile the *pargana* also ponders over the case. If the opinion of observers matches the personal opinion of *pargana*, the *pargana* announces the judgment at once. If opinion of the observer *manjhis* differs from that of *pargana's* personal opinion, the *pargana* requests the observers to reconsider their opinion on the case along with the reasons thereof. The observer *manjhis* reconsider the case afresh in the light of *pargana's* opinion. If the observer *manjhis* feel that the opinion of *pargana* is a well thought-out solution to the problem they inform the *pargana* about their agreement to the opinion of the *pargana*. If they feel that the *pargana's* opinion is lacking in balance they humbly tell the *pargana* that his opinion may mar

the social norms or some bad precedence might be set forth, which in their opinion would not be good for the people in future. As per customary norms the *pargana* has to give way to the opinion of the observer *manjhis*. He then announces the judgment.

After the announcement of the judgment a little time is given to the appellant and respondent *manjhis* to express their respective opinions on the judgment. If none of the *manjhis* object to the judgment it is taken to be a final judgment binding on the parties. If any of the *manjhis* objects to the judgment the objection is discussed by the observer *manjhis*. They reconsider the issues involved in the objection. After such discussion as may be required the observer *manjhis* recommend a consensus on the objection raised. It is then announced by the *pargana* that the objection is raised by the concerning *manjhi* has been deliberated upon and that after such deliberation this judgment is handed down for the benefit of the society. This second judgment is immune from any objection and is binding upon both the parties.

The *pargana* before leaving his seat stands up and holds the cane stick up in the air thrice as a token of sanctioning the judgment. He says in a ritualistic manner, "In the name of *Maran' Buru* and the *Lita Gosai* who taught us wisdom, I decree this case in favour of so and so *manjhi*. I have every sympathy for the defeated side. They are our brethren and the balance or justice with the bless of Gods repeatedly weighs on the side of the just and against wrongdoer. This will finally be decided by the Gods in heaven or the other world. Till then we must do our duty." And he invites all the *manjhis* to his home once again. At *pargana's* home all the *manjhis*, appellant and respondent, are served with drinks. Each one embraces the other in a festive mood. The judgment of the *pargana* is never disobeyed.

### Lo Bir Baisi

*Lo bir baisi* is the highest court in Santal judicial hierarchy, which is held in forest during the annual hunt. *Lo bir baisi* is both a dreadful word to a Santal and an interesting event too. Dreadful in the sense that the *baisi* would cause a person's painful end whoever that may be, and interesting in the sense that the youngsters would have an opportunity to witness the proceedings of the highest Santal court where only the adult members of Santal society are allowed. The *bir* songs are an added attraction for the youngsters. These songs cannot be sung in village street or by any female. It is a male prerogative. These are most vulgar songs. The men folk sing these songs during the recess of the *lo bir baisi* or in the night before the *baisi* when large number of people sit to wait for *baisi* to be held the next day. *Lo bir baisi* is the concluding part of the annual hunting ceremony. The people leaving their homes for the annual hunt are led by the *naeki* (the priest), and after him walk the *manjhi* and the *jogmanjhi* escorted by ten persons — 2 *ladea* (blowing the horn), 2 *baskaria* (with

flutes), 2 *guhria* (with drums), 2 *ramsingaria* (with trumpet) and 2 *ramkia* (playing their *kartal*). They are followed by the armed villagers and hunting dogs to a predetermined forest where the leader of the hunt, the *dehri*, awaits them. *Dehri* welcomes all the villagers led by their respective *naekis* and *manjhis*, often by the *pargana* also. The first night is spent on the base camp; next morning the *dehri* examines the omens. If it is good he commands the people to go on hunt. If the omens are inauspicious he tells the people to wait for the proper time. As the hunt is over the people return to the base camp for the concluding function of *lo bir baisi*. It is held under the presidentship of the *dehri*.

*Lo bir baisi* is the common name of the five different sub-committees (or benches). They are called the '*bengar koca*'. The five sub-committees are as follows: (1) *Manjhi Sub-Committee (or Manjhi Bench)*, (2) *Jogmanjhi Sub-Committee*, (3) *Godait Sub-Committee*, (4) *Naeki Sub-Committee (or the Religious Bench)*, and (5) *Laser Tengoe' Sub-Committee*.

In a *lo bir* session all these sub-committees hold their separate sittings at a short distance from each other, preferably under five separate trees in a semicircle around the main seat of the *dehri*. In the session, cases are put up before the *dehri* by anyone personally or through the *manjhi* of the village. The *dehri* is assisted by the *parganas* of the tract. After hearing the case *dehri* refers the case to one of the sub-committees, who after full deliberations arrive at a conclusion and informs the *dehri* of their opinion. *Dehri*, on hearing the opinion of the sub-committee, if too is in agreement with the opinion, announces the judgment. If he does not agree with the opinion, he refers the case to the *Laser Tengoe' Sub-Committee* to be heard. The opinion of the *Laser Tengoe' Sub-Committee* becomes the final judgment. It is announced by the *dehri*.

### STRUCTURE OF TSG BODIES IN SAMPLE VILLAGES

To understand the traditional self-governance among the tribal groups of Santal Pargana, total 8 villages were sampled randomly (see Chapter . 2). In all the sample villages the structure of TSG bodies (*more hor*) was documented and hereunder shown separately. The ascribed functions of the TSG bodies at village level have already been described in preceding sections. However, there are minute variations in the functioning and the norms from one village to another.

#### Raniganj (Jamtara)

<i>Manjhi</i>	:	Sunder Murmu (Manjhidi)
<i>Naeki</i>	:	Moti Murmu (Manjhidi)
<i>Kudum naeki</i>	:	Rupu Tudu (Bewa village)

<i>Paramnik</i>	: Moleen Hambrom (Paramnikdih)
<i>Godait (Kotaal)</i>	: Hemlal Soren (Sinjedih)
<i>Jogmanjhi</i>	: Sankar Murmu (Manjhidi)
<i>Bhoddos</i>	: Janesar Besra (Dahardih), Mahadev Soren (Sasaudih), Gono Murmu (Kochadih), Sanatan Hambrom (Sinjedih), Bodka Besra (Kasiidih)
<i>Mukhia</i> of Panchayat	: Nivaran Mandal (Chakri village)

### Ranitaand (Jamtara)

<i>Manjhi</i>	: Matla Marandi (Sasaudih)
<i>Naeki</i>	: Chhuttu Marandi (Jaherdih)
<i>Kudum naeki</i>	: Chhattan Marandi (Kolhedih)
<i>Paramnik</i>	: Mansing Marandi (Jaherdih)
<i>Godait (Kotaal)</i>	: Buttal Murmu (Sasaudih)
<i>Jogmanjhi</i>	: Buttal Murmu (Sasaudih)
<i>Laser Tengoe'</i>	: Thudu Baski (Jilimtaand)
<i>Bhoddos</i>	: Lodga Hansda (Jilimtaand), Basit Hambrom (Rakhataand), Lakhan Hambrom (Chamadih), Sanatan Hambrom (Kolhedih), Gomasto Marandi (Jaherdih), Ravindra Marandi (Sasaudih), Rabon Marandi (Jadudih)

### Khaksa (Pakur)

#### Central Village Council (based at Bakrabil hamlet)

<i>Manjhi cum Pradhan</i>	: Suleman Hambrom (Bakrabil)
<i>Naeki</i>	: Romon Hambrom (Bakrabil)
<i>Kudum naeki</i>	: Jogodhan Soren (Bakrabil)
<i>Paramnik</i>	: Roman Hansda (Chhota Khaksa) [expired]
<i>Godait (Kotaal) - A</i>	: Nogen Soren (Bada Khaksa)
<i>Godait (Kotaal) - B</i>	: Vacant
<i>Jogmanjhi</i>	: Vacant
<i>Bhoddos</i>	: Philiman Hamrom (Bakrabil), Kalidas Marandi (Bakrabil), Ledha Kisku (Bakrabil), Sonat Hambrom (Bakrabil),

Buddhinath Soren (Bada Khaksa),  
 Kalidas Tudu (Bada Khaksa),  
 Dhuniram Hambrom (Kali Pathar),  
 Chandal Hansda (Chhota Khaksa),  
 Devilal Hansda (Chhota Khaksa),  
 Seedel Hambrom (Chhota Khaksa),  
 Hansni Rai (Nawadih),  
 Sudan Rai (Nawadih),  
 Mitlal Tudu (Chhota Khaksa),  
 Sunil Murmu (Dandu Ghuttu),  
 Sivaji Hambrom (Dandu Ghuttu),  
 Jatin Soren (Dandu Ghuttu),  
 Govind Tudu (Khantad Ghuttu),  
 Narayan Madia (Kamartola),  
 Ganesh Tudu (Kamartola),  
 Sridhan Baski (Jatang),  
 Subodh Hambrom (Kali Pathar or Kalidih)

*Mukhia* of Panchayat : Kalidas Murmu (Bada Khaksa)  
*Up Mukhia* of Panchayat : Sakhawat Ansari (Malikpur-Pitargarhia)

#### Sub Village Councils

Since the village is huge and the hamlets are scattered over a km radius, the central village council found unable to control entire village. So under the chieftainship of *pradhan* 6 sub-bodies were created in different hamlets. Those sub-bodies are independent in dealing with affairs in their respective jurisdiction areas i.e. normally 1-3 hamlets. List of 6 sub-bodies along with their corresponding *manjhis* (called *haandi manjhi*) is as under:

- |                           |  |
|---------------------------|--|
| 1. Kalidih or Kali Pathar | Surja Murmu  |
| 2. Bakrabil               | Suleman Hambrom  |
| 3. Jatang (Bada Khaksa)   | Buddhinath Soren   |
| 4. Chhota Khaksa          | Roman Hansda (also <i>paramnik</i> in Central Village Council) |
| 5. Nawadih                | Viswanath Rai [expired]  |
| 6. Dandu Ghuttu           | Mangol Soren   |

Of 6 sub village councils, only first (**Kalidih**) was intensively studied. Its structure is given below:

*Manjhi* : Surja Murmu  
*Naeki* : Surja Murmu  
*Jogmanjhi* : Binajor Murmu  
*Laser Tengoe'* : Dhuniram Hambrom  
*Bhoddos* : Samuel Hambrom,  
 Subodh Hambrom

**Udalbani (Pakur)**

<i>Manjhi cum pradhan</i>	:	Matal Kisku (Chitaantola)
<i>Naeki</i>	:	Matal Kisku (Chitaantola)
<i>Kudum Naeki</i>	:	Ramlal Hansda (Manjhitola)
<i>Paramnik</i>	:	Dula Besra (Manjhitola)
<i>Jogparamnik</i>	:	Rajan Hambrom (Manjhitola)
<i>Jogmanjhi</i>	:	Chhutan Hambrom (Chitaantola)
<i>Godait</i>	:	Ramlal Hansda (Manjhitola)
<i>Laser Tengoe'</i>	:	Babulal Hambrom (Manjhitola)
<i>Bhoddos</i>	:	Rameswar Murmu (Talatola), Karan Hambrom (Manjhitola), Leelu Hambrom (Lataartola), Dhena Murmu (Chitaantola)
<i>Mukhia</i> of Panchayat	:	Durga Murmu (Fatehpur) [expired]

**Kalajora (Pakur)**

<i>Manjhi cum pradhan</i>	:	Pradhan Hansda (Manjhitola)
<i>Naeki</i>	:	Susil Tudu ((Naditola)
<i>Kudum Naeki</i>	:	Sonat Tudu (Khardaantola)
<i>Paramnik</i>	:	Mughal Hansda (Manjhitola)
<i>Jogparamnik</i>	:	Chudka Tudu (Khardaantola)
<i>Jogmanjhi</i>	:	Chudka Tudu (Khardaantola)
<i>Godait</i>	:	Ghada Marandi (Naditola)
<i>Bhoddos</i>	:	Sakal Hansda (Chitaantola), Babulal Hansda (Chitaantola), Lal Murmu (Naditola), Marang Murmu (Naditola), Sonat Tudu (Khardaantola), Antu Sah (Telitola), Jalpa Murmu (Chitaantola), Lakhan Kisku (Naditola), Sanjla Marandi (Manjhitola), Sibu Hambrom (Manjhitola)
<i>Mukhia</i> of Panchayat	:	Shyamlal Gond (Matiapahari village)
<i>Up Mukhia</i> of Panchayat	:	Som Murmu (Barmasia village) [expired]
<i>Sarpanch</i> of Panchayat	:	Mukund Parmanik (Kalajora village)

**Asanpahari (Dumka)** {TSG of Paharias in this village exists in the form of *Panch* or *Samaj*, which differs from TSG in other villages}

*Dahri* : Ram Kumar Dahri  
*Up Dahri* : Prabhu Kant Dahri  
 Assistant : Vinod Dahri  
*Godait* : Ganesh Dahri

**Lakdaphaila (Dumka)**

*Dahri cum Pradhan* : Sama Dahri  
*Paramnik* : Raghu Dahri  
*Godait* : Sonai Girhi  
*Laser Tengoe'* : Deva Dahri  
*Bhoddo* : Rangai Dahri

**Kumarbandh (Dumka)**

*Manjhi* : Shivilal Murmu (Manjhitola)  
*Naeki* : Ram Murmu (Manjhitola)  
*Kudum Naeki* : Birsa Dahri (Latartola)  
*Paramnik* : Raska Murmu (Jejotola)  
*Jogmanjhi* : Barsan Hambrom (Manjhitola)  
*Godait* : Sukkhoo Dahri (Latartola)  
*Bhoddos* : Badka Soren (Jejotola),  
 Maeckel Soren (Jejotola),  
 Gullu Hambrom (Manjhitola),  
 Sabna Dahri (Chitaantola),  
 Salhai Murmu (Manjhitola)

*Mukhia* of Panchayat : Mangal Marandi (Jadopani village)  
 [expired]  
*Sarpanch* of Panchayat : Suphal Soren (Kumarbandh village)

**\*Kalhajor (Pakur)** {Village was selected to know the *pargana*}

*Parganait* : Singhrai Hambrom  
*Deshmanjhi* : Dubrai Tudu  
*Chakladar* : Vacant

Villages in Kalhajor : 19 villages [Padherkola (mix), Kalhajor

Pargana (Bungalow)  
*with composition*

(Santal), Jhumku (Paharia), Jora Roi (Santal), Kermah (Paharia), Noonpara (Paharia), Jamkundar (Santal), Ambajora (Santal), Kamardiha (Santal), Bhilai (Santal), Chandpur (Santal), Bohra (Santal), Pundbad (mix), Sinjua (Santal), Marandiha (Santal), Balidih (Santal), Jamkanali (Santal), Aamtola (Paharia), Soharghati (Santal)]

Institutional structure of TSG bodies in different sample villages differs minutely from one another. This difference is attributed to the variation in the situations of the villages and residents' needs to govern their own affairs. Stark erosion in the TSG body of Asanpahari can be seen, however. Clear-cut identification of the TSG structures exhibits the existence, functional or dysfunctional, of self-governing institutions among the tribes.

## Legal Recognition of Traditional Self-Governance

Santals came into Damin-i-Koh, presently known as Santal Parganas, around 1810 AD. By 1835 there were 400 Santal villages in this part. These people were hardworking and much industrious. This was the reason that the colonial rulers encouraged the Santal's migration to this area. That time the British did not know that these very people were, just after two decades, destined to rise in arms and against the mightiest power on earth that time and consequently changed the history, geography, politics and the administration of this region. The glorious Santal rebellion of 1855 changed the whole situation. If anyone reason can be attributed for the organization, successful conduct and the unprecedented unity of the Santals during the rebellion, it is the social institution of the Santals headed by the *manjhi* at the village level and the *dehri* at the top. These *manjhis* were responsible for the organization of the rebels and co-ordination between the leader and the led.

The *Manjhi* is an important person in the Santal social hierarchy. He is the leader of the village community sitting at the top of the village administration; he heads the village council and functions as the representative of the village community. He is also the sole arbitrator of village disputes. His authority in the village community is unquestioned. This important function of the *manjhis* led the British to concede to the Santals a little autonomy in minor matters which were related to their daily life. Keeping this in view, some of the functions of the *manjhis* and *parganaitis* were recognized under the statutes. In post-colonial India the tribal self-governance institutions have also been legally recognized. Description of the legal instruments under which the TSG institutions were recognized follows subsequently.

### YULE'S RULES 1856

The first enactment under British Empire that recognized TSG institutions was the Yule's Rules. These Yule's Rules were originally named as the Santal Police Rules and were promulgated on 29<sup>th</sup> December 1856. The basic importance of the Yule's Rules lie in the fact that these rules, for the first time, recognized statutorily the community life of the Santals. The *manjhis* were made responsible for the management of affairs of the village community without intervention of police and the bureaucracy. Paras 2, 4, 8, 9, 12, 13, 16 and 17 of Yule's Rules describe the authority of the *manjhi* and *parganaitis* (Yule's Rules 1856, cited in McPherson 1909). These social offices were accountable to the bureaucracy for the conduct of the village people. Though these rules were indented to strengthen the revenue administration, however, crimes and other mischief were totally left in the hands of the social officials. It was intended that the crimes would be checked with less inconveniences to the village community.

This arrangement worked well as the Santals themselves did not like the interference in their daily lives from outside, hence, welcomed these

rules, which continued till three decades. In the Settlement Regulations of 1872 and Rent Regulations of 1886 the customary rights of the *manjhis* and *parganaitis* were kept intact. They enjoyed the privileges as before. This continued till 1880 when new arrangements were made to revive and strengthen the Yule's Rules.

#### A. W. COSSERAT'S ARRANGEMENT OF 1880

The Yule's Rules had been working well in this area as the *manjhis* and *parganaitis* became the linkmen between the people and the government. Whatever the people had to complain the social representatives were responsible to convey it to the government officials. However, the more important aspect of the arrangement of 1880 was the legal recognition of the status of the *manjhis* and *parganaitis*. The *manjhis* and *parganaitis* were wielding great influence over the Santal population. Mr. A. W. Cosserat proposed to the then government that *manjhis* and *parganaitis* had been discharging their duties well and that the Santal system be accorded legal recognition so that the people could be taken in confidence.

The Secretary to the then Bengal Government confirmed the arrangement of Mr. A. W. Cosserat in his letter no. 185T dated 7<sup>th</sup> July 1880. It is worthwhile to quote the following of that letter:

".....The *parganaitis* with their assistants, the *deshmanjhis* and *chakladars*, are the chief officers of the Santal system of village communities and in Damini the *parganaitis* are the medium of communication between the authorities and the village headman and the *raiya*s. They are called upon to arbitrate in boundary disputes between villages and in social matters they are looked upon as the final referees to whom disputed questions should be submitted for decision. The *parganaitis* and their assistants are as institution held in great reverence by the Santals, and there can be no doubt that in Damini not a single Santal would be found to vote for their abolition." (para 2 SPM - 508) (Cosserat 1880).

It is, in the opinion of Lieutenant Governor, important to arrest the dissolution of the system of village communities prevailing in the Damini which would be threatened by any failure fully to recognize the status of the *parganaitis* and their assistance. Under British patronage these village officers were the main links of the Government, while they were at the same time the chief agency for securing the rights of the villages. As per custom of Santals, the *parganaitis*, *deshmanjhis* and *manjhis* used to collect some dues from the villages under their control by virtues of their social offices. This is what the people did and are still doing owing to the fact that the *manjhis* are symbols of social and ethnic unity.

During the disturbances in 1855 and after, a large number of *manjhis* lost their homes and in some cases were driven out. Though the Settlement Regulation of 1872 provided for the restoration of their lands who were *manjhis* in or around December 1856. However, a large number of *manjhis* lost their houses and lands, which the said Regulation could not restore. Under the new Record of Rights the *parganaitis*, *deshmanjhis* and *manjhis* were deprived of the customary dues they were previously enjoying. After much deliberation and correspondence Mr. A. Earle, Secretary to Government finally sanctioned the customary dues to the *parganaitis* and other social officials by his letter no. 1708T dated 24.08.1903. Then only the TSG officials resumed the earlier status (Gantzer 1936).

### PARGANAIT REWARD FUND 1895

Under the agreements of Mr. A. W. Cosserrat the *parganaitis*, *deshmanjhis* and *manjhis* were entrusted with civil, revenue and police duties besides the customary functions of their own. To encourage them the Government established a Parganait Reward Fund. The idea behind establishing this fund was to encourage the successful *parganaitis*, while at the same time the undisciplined or erring *manjhis*, *deshmanjhis* and *parganaitis* were to be penalized by imposing fine on them. This fund was established by the judicial department letter no. 222 dated 31.08.1895 issues by the Chief Secretary of Bengal Government, Mr. H. J. S. Cotton. Such an arrangement continued till 1910 (Chaudhury 1965).

### RURAL POLICE REGULATION 1910

Arrangement of Mr. A. W. Cosserrat continued in this area and the local administration was managed by the *manjhis*, *deshmanjhis* and *parganaitis*. The *sanad* given to *parganaitis* and the *kabuliat* taken from them enumerated the civil, revenue and police duties which they had to perform. The spirit of the Yule's Rules remained intact.

The Rural Police Regulation of 1910 entrusted yet more responsibility on the *manjhis*. Now they were responsible for collection of government dues and keeping a watch on the *choukidars* and *sardars*. From almost entire area in Damin and non-Damin of Pakur, where *choukidars* had to exist, the *choukidars* have been called back to nearest police stations. On the other hand the powers of *sardars* (on bungalows) have been succumbed by revenue *karamcharis*. The earlier *choukidars* under Mr. Cosserrat's arrangement were set on a different footing; now they became the *sardars* in non-police tract of Dumka and Jamtara subdivisions. The *manjhi* was under this rule a revenue-collecting agent of the Government in the non-police tract of Santal Parganas, besides his social functions (Prasad 2002). Ever since the *manjhi* of the non-Damin area began to

lose their traditional police power and that was gradually taken over by the regular police force by 1945.

#### McPHERSON'S AND GANTZER'S SETTLEMENT OPERATIONS (1905-1912 AND 1922-35, RESPECTIVELY)

*Manjhi* continued his social functions as before. Though the new police regulation removed the *manjhi* from the centre place in the village under police administration, he continued to be the chief revenue officer amid village community. He remained the link between the Assistant Commissioner or SDO and the *raiyats*, the position which he still enjoys being at the post of *pradhan*. In recognition of holding his office he was given a piece of land over and above what he got as the village headman under the revenue administration. These lands are called the *maan* lands. Both Mr. Mac Pherson and Mr. Gantzer upheld the *maan* lands and they recorded it in the Record of Rights of every village where a *manjhi* was found. The Gantzer's report elaborately defined the rights and duties of *manjhi* of almost every village. Among other things the *manjhi* was entrusted to distribute the wastelands and vacant holdings among the village *raiyats*. He too was made responsible for the protection of village wastelands, village boundaries and the forest and government properties. In short, *manjhi* was declared a semi-government institution. He wielded great power among the Santals in arbitrating disputes arising between the villagers.

#### SANTAL PARGANAS ENQUIRY COMMISSION

Administration of Santal Parganas was conducted in the spirit of and according to section-2 of the Sonthal Parganas Act 1855. All enactments, regulations and rules had been introduced with this aim in view. After eighty years of administration the Bihar Government felt it necessary to review the administration of this area and for this end the Santal Parganas Enquiry Commission was set up in 1937 by notification no. 4562A dated 22.11.1937, which was entrusted with the review of the whole administration in view of the possible changes that were seemed necessary for the development and good governance of the area. This Commission submitted its report to the Government on 10<sup>th</sup> September 1938 (Besra 2003a).

This Commission did not change the status of the *manjhis*, and recommended uniform police administration. In revenue administration the Committee left the *manjhis* intact, while in criminal and civil justice the courts under Act 37 of 1855 they were left intact. Suits under Rs. 1000 were left to be decided and dealt by the Santal courts under Santal Parganas Act 1855. Again in practice the *manjhis* retained their revenue, civil and arbitrary powers apart from the customary functions they had to

perform. The traditional panchayat of Santals, which the *manjhi* heads, was not disturbed.

### SANTAL CIVIL RULES 1946

Under the Act 37 of 1855 more stress was given in the criminal justice. Actually, the civil disputes rarely reached the authorities, for the *manjhis* and *parganaitis* had been disposing of these disputes at the village level. The acumen and expertise shown in this respect are exemplary. Mr. A. W. Cosserat noted an example and praised the role of one *maha pargana* in the following words: "I, also added that in my settlement work in Sultanabad *pargana* of Damin-i-Koh, found that nearly every boundary dispute which I settled had been settled a year or two before by *maha pargana* in exactly the same way as I subsequently settled it and his decision had been respected until the settlement proceeding afforded another opportunity for reopening the disputes. I was much struck with *maha pargana's* impartial and correct decisions..." (Cosserat 1880).

The village panchayats or courts thus were dealing with the petty disputes effectively. The tribes were by nature a peace loving people; hence major crimes were very rare. The greater disputes arose out of land or some boundary disputes, marital offences or the like. These social officers had full control over the affairs of the Santals. Seeing this a set of rules were framed in 1946 known as Santal Civil Rules, under which a simplified procedure was introduced for the Santal Courts (established under Act 37 of 1855) dealing with revenue and civil suits. A wide scope was left to the traditional village courts to deal with suits valued below Rs. 1000. The suits which valued under Rs. 500 were to be decided by the village courts of the *manjhis* and *parganas* (Prasad 2002). Under the scheme of the rules the arbitration was encouraged which is the basis of traditional village court proceedings. This offered an opportunity to the social elders to use their social authority in arbitrating the disputes among the Santals. These rules are still being followed and it forms the part of laws applicable in Santal Parganas. Therefore, the Santal Civil Rules provided further scope to *manjhis* and *parganaitis* to dispose off the disputes among Santals, and thereby extend relief from the monotonous litigation in courts of law where both the proceeding and law were alien to them.

### SANTAL PARGANAS TENANCY (SUPPLEMENTARY PROVISIONS) ACT 1949

Santal Parganas Tenancy (Supplementary Provisions) Act 1949 (Act 14 of 1949) is the first enactment after Independence. This Act too is further step in the series of enactments for this region beginning from 1855. Though this Act mainly deals with the tenancy of this area, yet *Manjhi's* power regarding revenue matters have elaborately been dealt with (Prasad 2002). The *manjhi's* rights and duties enumerated in the

settlement operations have been given legal sanction. It was provided for the creation of new *manjhi* tenures; however, the most important provision in present context is the creation of Headman Reward Fund under this Act. It has been provided that *manjhis* can be rewarded for their services and that government have to contribute a sum for this purpose. Further, the headmen (*pradhan*) or *manjhis* were given power to settle wasteland or vacant holdings to the deserving *raiya*s of villages. In essence, the community characters of village lands have been admitted and their collective distribution was contemplated by the makers of this Act. The *ka buliat* to be executed by the *manjhis* as *pradhan*, under this Act, enumerates a number of duties which also include police duties of maintaining law and order.

#### STANDING ORDER NO. 14/53-54 (SPM 487-89)

Above Tenancy Act of 1949 entrusted police duties to the *manjhis* along with revenue duties in Santal Parganas. They were expected to discharge their duties through the *chaukidars* and *godait* who sometimes have been treated equal. However, the standing order no. 14 of 1953-54 (Govt. of Bihar 1954) enumerated some police powers under which the *parganaits* were entrusted with authority to deal with the petty offence of nuisance, unlawful assembly, theft, peace and tranquility, etc. The village folk and the Santals in rural areas are mostly charged with these offences and are looted by the corrupt police officials and middlemen. Moreover, the statutory panchayats are having almost the same jurisdiction.

#### THE PROVISIONS OF PANCHAYATS (EXTENSION TO SCHEDULED AREAS) ACT 1996 [PESA 1996]

After independence the first Commission was set up by the central government in 1961 to inquire into the administration of Scheduled Areas and Tribal Areas under the chairmanship of U. N. Dhebar with Dr. Varrier Elwin as the Secretary to the Commission. This Commission too strongly recommended strengthening the traditional *panchayats* of the tribes in the Vth Schedule Areas. Those recommendations, unfortunately, have not been implemented, and 3 decades passed off unnoticed. Following the mounting pressure by National Front for Tribal Self Rule, only in 1994 the central government agreed to appoint a high level Committee in order to inquire into the administration of Scheduled Areas of the country comprising of members of parliament and experts on the subject under the chairmanship of Mr. Dilip Singh Bhuria, MP, on 10<sup>th</sup> June 1994. The Committee submitted its report to the Government on 17<sup>th</sup> January 1995.

The Committee felt that certain unique characteristics of tribal societies need to be kept in view. Important among them are that many tribal societies have had their own customary laws, traditional practices, community ethos, political and administrative systems, etc.; and their

mode of living, organization, cultural mores and their present day predicament of exploitation, deprivation, marginalization, etc. would have to be kept in focus. Since many tribal communities have been living autonomously in isolation from the rest of the societies, they have exercised control over and had access to natural resources through their institutions. Their *gram sabha* and village councils since have been vibrant institutions in the administrative, religious, political, economic and justice fields, the Committee felt that while shaping the new *panchayati raj* structure in tribal areas it is desirable to blend the traditional with the modern by treating the traditional institutions as the foundation on which the modern supra-structure should be built.

On the recommendations of Bhuria Committee, the parliament enacted a law 'The Provisions of Panchayats (Extension to Scheduled Areas) Act 1996' (Act 40 of 1996) for the Scheduled Areas of the country. The President of India assented to this on 24<sup>th</sup> December 1996. Under this Act the *gram sabha* or the village council got several revenue, administrative and judicial powers. These are the same which the *manjhis* and *parganas* were enjoying earlier. In another development the Patna High Court restrained the Government of Bihar to hold *panchayat* elections in the Scheduled Areas of Bihar by an order dated 22<sup>nd</sup> December 1995 in a writ petition filed by Dr. Basudev Besra [CWJC no. 8262/95 reported in PLJR 1996(1):260] under Bihar Panchayat Raj Act 1993.

Now *gram sabha* as defined in PESA 1996 will be elected and will function according to the provisions laid down in the Act. The tribal population of the Scheduled Areas will have a local self government of their own choice as the traditional *panchayat* is in line with the *gram sabha* under PESA 1996.

## Traditional Self-Governance and Tribal Lives

Tribal community is characterized with absence of social hierarchy, relatively less or no materialistic philosophy, cohesiveness, simplicity, democratized institutions, ethnic consciousness, cultural affinity, and so on. However, in the modern times the tribal communities are in constant contacts with other societies having faith in different religions. Evidences suggest that many tribal communities, say, Santals, still live with the local institutions of their own that facilitate, support, regulate and control the lives of people in myriad ways. TSG institutions of tribes thus should in this respect be understood rationally. It is so looked into taking different aspects of tribal lives.

### MANAGEMENT OF COMMUNITY AFFAIRS

With the emergence of community life in the tribes the mechanism to administer and control the social behaviour also evolved, which took the shape of TSG institutions. Social, cultural and ethical issues primarily came under the purview of TSG bodies. Be it birth, marriage, death, feast, divorce, adoption, mutation of property, etc. How the TSG maintains the community cooperation can be guessed from an incidence. As the residents of Raniganj quoted: “.....otherwise the cooperation is extremely abundant in our community. Say, if there is a death in one family, cent percent people from the same village gather there. Women visit the family of deceased continuously for a month. Women sit with the women of deceased family and collectively weep. Such things have declined in other societies. If someone does not attend the deceased family due to unavoidable situations, as soon as he/she gets time must visit the family of deceased”. This whole social behaviour is morally binding on everyone and is regulated by TSG bodies. Moreover, the families to which the deceased family belongs gather, and with the help of *manjhi* they organize the events and arrange for the guests. In rest of the activities, apart from *manjhi* the whole village participates. In case the same mishap is observed among non-tribal family of the village, the procedure adopted remains the same except that the events are disposed off as per the customs and rituals of the concerned society. So the events/ activities go on under the desirable supervision of TSG body.

*Santal village community presents a blend of ultimate democracy with influential leaders, of private ownership with claims and a community with rights.*

— W. G. Archer.

Likewise, hundreds of matters concerning the welfare of the community are regulated by TSG bodies. In the condition if a person does not follow the norms, the TSG body warns, checks or punishes appropriately. In extreme cases the TSG body makes the convict *baad*, viz. he/she is isolated. Such a person cannot use private/ common property or asset e.g. well, handpump, tree, plough, bullock, cycle or else, and even his/ her cattle are prohibited to graze. If he/ she accepts the guilt and wants to follow the norms again a meeting is organized and his/ her position is revised.

## MANAGEMENT OF LOCAL RESOURCES

The tribes mostly live in resource-rich areas, and the responsibility of management of resources in the village territory grossly lies with TSG body of the village. Though the TSG regulates the use, distribution, sharing, transfer, inheritance and ownership on possibly every type of the resource available in the village, however, the cases of several resources are briefly discussed below:

### Land Based Resources

*From cradle to grave of a man's life the TSG institution looks after all social, economic and development needs of the people. Bypassing it, if one wants to develop the village even through crore of rupees, he cannot do successfully.*

— Laskar Soren  
(Tribal Leader  
from Jamtara)

At the founding of a new village, each Santal received land not by individual seizure but by village decision, and it is only when he has brought his holding under cultivation, that he acquires a permanent right to remain in possession. If he desires to exchange his land with another Santal, he can only do so with approval of village council and this must be ratified by SDO. He cannot otherwise transfer the land out of his family. He must also pay his share of land, but it is actually a joint tax which Santals pay as a community. If he dies without heirs or finally deserts the village, the land goes back to the village stock. The village land in fact is partitioned among individual Santals only as functioning members of the community and it is the community which is the final owner.

Interestingly, the communal ownership is not only confined to arable land but also covers wasteland, village roads, grazing ground, the beds of streams, irrigation channels, cremation and burial sites. These are administered by the *manjhi* (or *pradhan*) and are held by the village as a whole. A Santal cannot encroach on land reserved for communal use and if he over-ploughs its limits or brings it under cultivation, he becomes a trespasser who is liable to eviction. Similarly, if he reclaims wasteland, he must take the approval of the village. Without that sanction his labour may well go in vain for if the community or individual Santals object.

### Waters and Fishing

Village is also to a great extent the public owner of water. Streams and rivers are technically the property either of government or the community. In all other cases, it is the village which is the owner. All wells, *bandhs* or tanks made by the community itself belong to the village. It is these which the *manjhi* can require the villagers to repair and which each member of the community is entitled to use. If a Santal is outcaste he ceases to be a member of the community and one of his greatest deprivations is the loss of village-owned water.

The villagers of Raniganj told the mechanism of controlling the irrigation sources, natural or man-made, in the jurisdiction area of the village. If the water source is common resource, anyone can use it but cannot

encroach upon the land of that water body. None can cultivate the lands under waters. In case the tank or pond is private property the owner cannot deny the drinking and domestic uses, yet he can do pisciculture. If one requires the water for irrigation from other's pond, he may pump out or take out the water in desirable volume as per his requirements, but the water required for fish rearing has to be left over in the pond. Yet, the water user has to get permission of pond owner. The water user may be either tribal or non-tribal. If someone steals water from one's pond (though such theft happens only when pond owner denies water and other's crops dying of wilting), the matter reaches *jogmanjhi* for reconciliation. Suppose, the thief of water took the permission prior to theft and was denied, the council of five relaxes the punishment; many often TSG body gets parties compromised. However, if the thief allows the excess water to flow waste he may be punished hard. The similar norms exist for community pond as well as community drain. Thus, none is permitted to overuse or misuse the water.

### Grazing Grounds

In the wastelands and *gochars* the animals, in whatever number, of anyone can go for grazing, provided they do not harm the crops of a *raiyat*. Say, Kalidih hamlet of Khaksa village has 20 bigha *gochar*. Role of village council in preserving the CPR is very positive. As the TSG officials communicated, the people from neighbouring villages had to damage our crops by uprooting, grazing or raiding the crops. The TSG body of Kalidih fined, punished the culprits, and resultantly the damage stopped. Mr. Surja Murmu, *manjhi* of Kalidih (Khaksa), enlightened that none can encroach upon the *gochar*. However, sometimes a person if requests piece of land for house construction, he can be given space in grazing ground. As far as the grazing rights are concerned, everyone having animals can herd the animals in the ground; there is no discrimination in that connection.

### Forests and Trees

On lands of Santal Parganas the arrival of Santal community is not old; they came in along with the British penetration into the territories. Before they had developed well-defined mechanisms for forest protection and usage the British rulers starting taking over the forestlands. Following the *hul* the British Government extended their control primarily on cultivable lands and the forests. In some areas the forests were in the control of *zamindars* or other tenure holders under British patronage. During the colonial rule, in Jamtara State the Rajas of Jamtara degraded the forests. As the TSG body of Ranitaand informed, it was once a dense forest in whole Narayanpur block, but the Rajas clear felled all. TSG officials had to conserve the jungle, but could not resist the mighty Rajas. It is thus why the Santal village councils do not have elaborate

norms on preserving the forests. With the reservation of forests in the first quarter of 20<sup>th</sup> century the forests were even enclosed and went out of communal domain. This phenomenon is attributed to the passiveness, and then erosion, of TSG institutions of even Paharia community that likely had the norms for forest conservation. Yet, the norms for the trees management exist in Santal institutions.

Trees on private lands belong to family concerned, but for felling the owner is not free enough. He can only cut down the tree provided he needs it for genuine purpose. This is the norm for the trees growing within the village, whereas the trees growing in private farmlands could be felled without permission. If someone else cuts down other's tree the owner of the tree complains TSG body. *Manjhi* refers the case to *jogmanjhi*, who calls upon the meeting and after hearing the case the judgment is released. For the trees existing on common lands, the plan is drafted to give them protection in annual meet in *magh* festival. CPRs are protected variedly by different officials; all have to participate in this function. Further, the usage of CPRs cannot be individualistic, only communal use is allowed.

According to Laskar Soren, it is the common fact that the tribal hamlets are surrounded by or interwoven with trees and bushes. From a distance one can guess whether a hamlet/ village is of adivasis or non-adivasis. It is why the trees have greater significance in the lives of tribals. As for various needs of food, fuel, house construction and *pattal* making, the tribals plant and protect more number of trees. This phenomenon though is very common, but particularly the people of Udalbani relive the tradition. Situated on the hill the village is surrounded by plenty of forest and trees. None in the village can cut down the tree from other's land/ bund, especially those that bloom and give fruits. Responsibilities of conservation of the forest lie on the community. Similarly, the Lakdaphaila and Kumarbandh villages are surrounded by hills and dense forests. The local residents asserted that they do not extract the natural resources from the forests beyond their immediate needs, and do not allow the outsiders to encroach upon the resources.

### Livestock

Domestic animals subsist the farming practices of Santals. Noticeable is that the household has to ensure that his animals should not cause harm or damage of others. Interestingly, if goats or cattle graze a standing crop, they are taken to TSG body that after assessing the damage penalizes the animals owner. Owner must have to pay the cost and if fails to pay, he is made to suffer *begaar* or minor out-casting. If the damage is deliberate the owner is fined, and if offence is repeated the fine is doubled. In case an animal gores/ injures animal or the man, its owner must have to pay the compensation for the damage decided by the villagers. If somebody kills the animal of other, the accuse has to give its

price in whatever manner the *manjhi* decides. For example, in Lakdaphaila village the TSG body has fixed Rs. 5 per count of goats if they damage the crops of other person; likewise, on bullock this amount is Rs. 30 per count. However, as Sama Dahri, the *pradhan* and *dahri* of Lakdaphaila village, narrated that they forgive the culprit first time, but essentially capture the animals second time and punish the owner.

Another significant norm relates to the person who is not the owner of cattle but the caretaker. In this connection, a servant who injures a buffalo can be made to indemnify his master. Likewise, a Santal who has taken loan of cattle on the *caro* system (annual hire) must return them free from injury. Say, somebody has taken bullocks on hire for a season he has to return the animals after the ploughing time is over. In case the animal dies of disease or is killed by wild animal, the hirer simply returns head, skull and hide. No replacement is charged. However, if the animal during hiring period is seriously injured or dies from an injury, the owner can claim another animal of equal value. Some people only keep their animals for stalling with person living in other village. In such circumstance, the custodian is free to get dung and is likely paid some money. The custodian, however, is responsible for injury in the stall; but, generally the owner is responsible, not the custodian, if the animal is at work or in grazing.

## Sacred Lands

### *The Manjhithaan*

In a Santal village the principle of public ownership also extends to the religion. *Manjhithaan* is intimately associated with the *manjhi*'s office. It is considered to be the village court of justice, and regarded as a memorial to the first founder and as the abode of recently deceased *manjhi*. The shrine is normally situated opposite the *manjhi*'s dwelling and if the headmanship passes from one family to another, the *manjhithaan* is shifted to a site by the new headman's house. The land on which *manjhithaan* is situated is the property of whole village community.

### *The Jaherthaan*

This other public shrine, called *jaher* or sacred grove. Typically this consists of a clump of trees with one *mahua* standing near. Three trees in a line are dedicated to *maran buru*, *jaher era* and *more ko turuc'ko*, another to *pargana bonga* while the *mahua* tree is reserved for *gosae era*. At the base of each of these trees, a stone is imbedded and all five are known as *bonga* trees. The remaining trees in the grove are not reserved for particular *bongas* but form a kind of annexes where other *bongas* of the hills and forests may dwell if they wish. All the trees in the grove, whether living or dead, belong to the village community. While a tree is

living, none may chop it with an axe as otherwise 'the *bongas* will burn his house'. Once a grove has been deserted, the trees are purged of their *bongas* and become like other *sal* trees on wasteland. They cause to be the reserved property of the community and are governed by the ordinary rules for other trees.

### PROTECTION OF LANDS AND LIVELIHOODS

Land is livelihood for the tribal communities. Following the dispossession of these communities from the forests or the degradation of forests the cultivable lands and CPRs have become vital for the survival of the tribes. Having been adequately conscious of the importance of lands, the TSG institutions are expected to have evolved the mechanism of protecting the resources. According to the villagers of Raniganj, the usurp of land is communicated across the village the TSG body thinks on the strategies for protection. If *raiyat* himself transfers land to anyone, the *manjhi* still has to be informed properly. As a matter of fact the TSG body carries the responsibility of protecting the natural resources and community properties. A prominent example of protection of community land is of Raniganj. The village has a big playground which the TSG body extends the protection for. Once the Nirmala Niketan, a Christian missionary based in Jamtara, wished to encroach upon the playground and build camp in it. *Manjhi* informed that one day the persons from the missionary visited the village and showed their intention to open the school, hospital, etc. in the lands. They also took one house on rent, and started showing video films in the village and promoting liquor consumption. *Manjhi* ordered Mr. Tung Ram Murmu, the house owner, to vacate his house; and advised him not to allow their vehicle to come again into the village. In that way the missionary was prohibited to encroach upon the land.

However, the manipulation of land is possible after annexing the powers of TSG institutions. The examples exist in the villages under stone quarrying in Shikaripara block of Dumka district where the TSG institutions have eroded to the extent that they are not capable enough to protect the tribal lands from alienation to mining industry. Village community of Udalbani opined that the protection of tribal lands is possible only when non-tribals equally respect the spirit of Constitution. If someone deliberately invades the tribal lands, the TSG institution struggles to an extent, but it defeats against the dominant alien forces of modern societies, state and industries.

### PROTECTION OF TRADITIONS, CUSTOMS, CULTURE, IDENTITY

Culture, traditions and customs are the backbone of TSG institutions. It is natural that the TSG bodies care for the preservation of the culture and customs and assert for the maintenance of identity. During the field

investigations some incidences of this sort were documented. They are explained as follows.

*Pradhan (manjhi) should only be tribal, Christian tribal pradhan have caused the erosion of TSG institutions.*

— Mr. Kalidas Murmu  
(Ex-Mukhia of  
Khaksa village)

“Going out of *bithin* (native religion) and marrying outside amounts to inoculation of the culture”, unveiled the *manjhi*, Sunder Murmu, of Raniganj. At many places the non-Santals or non-tribals marry with a Santal girl with the intention of sharing (grabbing) the property. TSG institutions prohibit this practice by pronouncing *bitlaha* of the girl. In turn the girl has no right in parental property. This is how the TSG institutions strive to safeguard the cultural frontiers.

Conversion into Christianity seems to be a big cultural concern for the Santals. Mr. Kalidas Murmu of Khaksa has in mind to assemble all TSG bodies of the region, and will exercise a ‘collective bitlaha’ of those who in the past converted into Christians. Moreover, the people of Udalbani replaced the *manjhi* few years ago because the outgoing *manjhi* changed faith (Christianity) from *bithin*. Current *manjhi* is young man and carries the duties of *naeki* as well. To assert the cultural and identity rights the TSG officials in Raniganj village have formed an association, Adivasi Susar Samiti.

## Participation of Women in Traditional Self-Governance

Santal's first attitude towards woman is expressed in the phrase — *jinis kanako* (they are things). Santal by this phrase does not accord to lifeless things like stone, ploughs, etc. but he expresses the view of woman that has survived from the hunting period of their nomadism. With constant migrations and dangers in the forests, the woman may have seemed a form of baggage — an appendage to the hunter. She is believed to be property of man — not in the sense of mere servility but as one whose functions and needs can only be fulfilled in association with men themselves (Archer 1984).

A Santal woman plays a very important role in Santal community. Seemingly, she occupies an inferior position but she has her rights along with obligations according to custom and tradition, although the condition of Santal woman has been undergoing changes along with the impact of modernism. Until a girl is married she is the property of her father but in the sense that he protects her person and is responsible for her conduct. If her modesty is infringed on, it is for the father or her guardian to take steps. If she has a lover and is detected her value for marriage is impaired. If an unmarried girl commits an offence, her father is fined or outcast 'for his property has gone astray'. Similarly, when a girl is married she becomes the property of her husband and he has to take care of her (Chaudhury 1965).

As between the sexes the labour is divided but this arrangement is based not on inferiority but on convenience and propriety. Discussions held in different villages reveal, men are more fit than women for certain acts, while in others the performance by women would suggest a sexual deviation. Women for example cannot plough, thatch a roof or use a leveler. They may not shoot arrows, use a razor, chisel holes, strike with an axe or fish with line and hook. They cannot weave cloth or string a cot. They cannot wear male clothes or play male instruments. All these actions are performed by male. Likewise, women are debarred from sacrificing animals as well as from witnessing sacrificing. In certain circumstances, certain women may not enter the *bhitar* or private shrine. This is because the sex of women will contaminate the *bongas* on the other hand the collection of fuel and the daily drawing of water is almost exclusively a woman's task and cooking also is normally the function of women only. In one aspect the Santal women sharply diverge from men. Among Santals, only women are witches while men are witch-finders and healers. For this reason women do not use drums, go to *manjhithaans* or accompany a corpse. All these things are done by witches and to do any of them would expose a woman to village suspicion.

Viewing the place of women in tribal society, it looks relevant to discuss the women's rights in property, which is nowadays a contentious issue in warm debate. TSG institutions have its role in providing with the rights of the women as human being and regulate their participation in the management of properties and the participation in governing systems in the village.

### WOMEN'S RIGHTS IN PROPERTIES

Rights to property more vest to the unmarried girls than the married ones. The unmarried girl is the owner of certain types of property. So long as she is unmarried the wages earned by her are the property of the head of the family. But there are six kinds of wages on which she has absolute right. First of these is the *irarpa* or a bundle of harvested crop. *Irapa* is given in almost all well-off Santal families. Second type of property consists of any animal that her maternal uncle may have given her as gift. There is again a number of customary presents on which an unmarried girl has absolute possession. If her grandfather or elder sister's husband come to the house, she washes their feet and they make gift, which is her property. At the wedding of her elder sister she acts as a leading girl or *ak vuric*, and receives various monetary gifts (Chaudhury 1965). A fifth type of property which she may have inherited on the death of her father and mother. If her mother is already dead and she gets her father's movable property on his death and retain it till her marriage. If she if she is a major, she can dispose off it as she likes, otherwise it will be kept for her by guardian until she is married or attains majority. If her mother dies she will have no claim in her father's movables if there are brothers. Finally if there is a partition in the family before girl is married she is given *danguahisa* in the form of cattle.

In principle, the girl has limited rights in the immovable property of the father. She cannot ask for a partition if her brothers separate, however, normally a piece of land is kept in reserve for financing her marriage. At the same time her right to maintenance continues if she is adult and can claim it from her father, brother or father's agnates. She can also claim sufficient land for maintenance till her marriage. Moreover, she can acquire land of her own out of the wages received in the form of *irarpa* and out of other presents from her kindred. On such land she has absolute right. Similarly, *in certain circumstances an unmarried daughter can inherit land of her father if there are neither brothers nor agnates.* Unmarried girl also has certain rights over own person. If anyone violates her modesty the culprit has to pay five rupees or some other sum decided as *lajao marao*. This *lajao marao* money is her absolute property. All the utensils, articles, ornaments, cash or cattle possessed by her as an unmarried daughter remain her own. If after marriage she comes to her father to assist him in harvesting operations, she earns fresh gleanings and these are added to the original stock. If the *irarpa* consists of fowls, pigs, goats, cattle or cash, it is usually kept at her father's house until she is finally settled in her new house after marriage. The settlement of the married daughter generally starts after the birth of the first child (Chaudhury 1965).

A married daughter during her lifetime has full control of ownership in all types of movable or immovable property. In case of movables her property is not inherited by her husband, but is divided equally by her sons. While in case of land, the inheritance varies according to its

characters. If the land has been acquired as *taben jom* (forever) the children of the married daughter inherit it. If there are sons they receive the landed property and if there are no sons, the daughters, married or unmarried, will get the property. Her husband or his agnates will not, however, have any claim, for the land was never theirs. If the woman does not have any children the land will return to her father, brothers, mother or male agnates.

### PARTICIPATION OF WOMEN IN TSG INSTITUTIONS

Traditionally, 3 seats are reserved for women in the TSG body at village level. They are called as *budhi hadam*. *Budhi* means 'elder', not the old. Actually it is the post that is designated as the post of elder, which does never mean the person sitting on it, is old or aged. Sitting on these 3 *ex-officio* posts (*manjhi budhi*, *jogmanjhi budhi* and *naeki budhi*) are, respectively, the wives of *manjhi*, *jogmanjhi* and *naeki*. However, one fact should not be overlooked that these female officials mostly participate in the social and cultural functions and play their vital role. General discussions revealed that the women have narrow space in the traditional governance system of the tribes. Yet, the TSG officials of Kalajora made a point that the women could participate in *baisi* and voice their opinion.

The advocates of traditional self-governance system, Manjhi Pargana Sardar Mahasangh, Jamtara/Dumka, articulated that 68 women *manjhis* hold the post in Jamtara district alone. Daughters of deceased *manjhis* have succeeded as *manjhi-hadam* in those villages. For example, *manjhi* of Madhusinga village near Ranitaand expired last year. He left neither the son nor daughter. The village community allowed the *manjhi budhi* to look after the works and she was given charges of *manjhi* until the election for new doesn't take place. From all such incidences it seems that the women may function as the TSG body heads and members.

Notwithstanding above, all the respondents agreed that the women are not allowed in delivering the religious functions. Women also accept this conviction. "Women cannot do religious functions, so they cannot be *naeki*. But they can be *manjhi* to head the TSG institution", exclaimed Ms. Sobha Soren. The TSG officials of Udalbani disclosed on the aspect of women participation in TSG system, and said that the women can become the *manjhi* or hold other post except *naeki* or *kudum naeki*, the religious posts. But in practice the women normally are not accepted at the post of *manjhi*, though they can be *pradhan*, designated to look after revenue affairs. Village council of Udalbani indicated that the wife or daughter of the deceased *manjhi* can hold the post provided he left no son. However, some elders of Udalbani were found disagreeing on the idea of selecting or electing the woman on *manjhi's* post. They argued, since our TSG system is intermixed with religion and faith, so entire community has faith in the post of *manjhi*. Accepting the woman *manjhi* seemed as

inconvenience for the elders of Udalbani, however, the relatively young people were agreeing the proposition.

After all the issue of the participation of women in the TSG institutions is a crucial one that attracts further inquiry preferably through 'participant observation' technique. Other technique of the research is likely workable because the Santal women particularly are accustomed to the traditional governance system in the villages and do not dare to voice anything against the socio-religious system. Yet, pessimist view on this aspect of governance heads towards not rejecting the future possibilities of women participation in TSG institutions if they are inducted into new constitutional PRIs.

## Traditional Self-Governance under Alien Models of Governance

It were the English rulers who first timely altered the TSG system of tribes in Santal Parganas and fixed the village council officials for serving their interests of rent collection and general administration. However, instead of replacing the local governance system with alien one, they wisely used the existed system by allocating additional powers/ resources to the village council officials especially *manjhi* and *parganaits*. Therefore, the functions of village officials were also expanded. In the villages where rent was payable by the village as a whole, it was the *manjhi* who had to collect it and to make payments. All abandoned holdings and wastelands were in his charge. He was the custodian of village property like communal wells, roads, *bandhs* and grazing grounds, and he was also empowered to requisite labour for repairing them. Similarly, *paramnik* was handed over a duty to act as the *manjhi's patwari* or rent receiver. Rent collection, thus, was one of some duties and powers the colonial rulers infused into TSG institutions. The changes that were inculcated in the TSG institutions under British Rule have been described subsequently.

### TSG INSTITUTIONS UNDER BRITISH RULE

By principle the appointment of the Santal TSG officials is for one year. Every year during January-February the *magh* festival is celebrated in which the election of office bearers takes place. Some experts and practitioners hold that this annual election of new officials was modified by the English rulers in their favour. When they had firm relations with the *manjhi* and *paramnik*, they wanted them to prevail for long in the village governance structure. Since then annual remuneration of office was declared only ritualistic, not realistic. It was then assumed that all officials were appointed lifelong and unless they gave up office voluntarily or so neglected their work that the village suffered, they were entitled to retain their functions until death. *Magh* festival was also ritualized in the way that it tended to emphasize village approval as the basis for office and provided an annual occasion for the expression of grievances. Others like W. G. Archer (1984) claimed that *magh* festival was in the same nature from the beginning, which means the offices of TSG systems are hereditary from time immemorial. Anyway, whatever it is, yet the British altered the system in a great deal. Much bureaucratic modernity was made liable in the erstwhile perfectly indigenous system of governance.

*Manjhi actually is the chieftain of the village, while pradhan has been installed by colonial government for rent collection. Pradhan is imposed upon us, who could be non-tribal. Manjhi cannot be non-tribal.*

— Villagers of Kalajora

Say, if the official holds service lands he can be deprived of his office by the villagers without prior permission of district administration, but if his successor wants to get service lands he must acquire an order of Deputy Commissioner regarding the removal of outgoing official and the order of eviction in that connection. Similarly, the Deputy Commissioner must have to approve the dismissal of *manjhi* by the villagers. In Damini area, viewing the *pargana's* place in local administration, each appointment was made by the SDO. Earlier the post was exclusively hereditary but in

the view of the police work that Damin *pargana* had to perform, the government started appointing educated persons as *parganas*. During the appointment the relations of the state with dismissed or retired *parganas* were to be considered first. Although the opinions of *manjhis* of neighbourhood were taken, but the candidate whom SDO considered suitable was selected for the post of *pargana*. Subsequently, the power of dismissal of an incompetent and unsuitable *pargana* transferred from *manjhis* to the SDO. The council of neighbourhood might express the dissatisfaction with *pargana*, but it had no longer the power to discharge or replace him. This arrangement imposed by the British had overbearing on the TSG system at neighbourhood level. Where the *pargana* was sensitive to local opinion he tended to respect and value the council of five *manjhis*, and in turn was respected and valued by the council. However, wherever he unduly stressed his importance, as government officer there was often friction between the two, and, resultantly, the five *manjhis* sometimes used to meet while bypassing their *pargana*.

Problem factually started just in the beginning when the British rulers created confusion in the village about chief of the village community. They created posts of 'headman' and '*pradhan*' imposing upon the *manjhi* who was already existing in the village as chief of the community. Evidently, the headman of a village who was created by law could not have either such freedom or had any right independently of the contract he entered into with the government. But the *manjhi* (being a customary chief) had such customary authority independent of any contract. The *manjhi* had certain express limitations imposed on him by the village community (Besra 2004). He neither was nor is 'free' man as long as he holds office of *manjhi* of a Santal village. He is expected to act, on the advice of and with the consent of, the entire village community.

Customary *manjhi* is usually given the *maan* lands by the village community for his services to the villagers. There are other *maan* lands of other village officials, like *naeki maan*, *godait maan*, etc. These *maan* lands had been set apart for the customary practice wherever the Santals live. But, unfortunately, due to ignorance of this custom these *maan* lands have been converted into official *jote* of *pradhan* during McPherson's Settlement (the letter no. 2915, Calcutta 27<sup>th</sup> July 1904 written by Secretary, Govt. of Bengal to Secretary, Board of Revenue, Land Revenue Department: quoted at page 198 of Santal Parganas Manual 1911). Thereby the customary chief of Santal village has been stripped off his customary dues by an order of the Government. In Santali language, *maan* means the honor. Thus depriving the *manjhi* of his *maan* amounts to taking away the honor of the *manjhi*.

In short a *manjhi* is the custodian of tribal village life, whether he performs the duties of *pradhan* or not. He is a customary chief, not the creation of modern law. Apart from the election of functions of the *manjhi* and *pradhan* some legal anomalies have also created confusion. The office of *manjhi* and *pradhan* are usually taken as synonymous,

Manjhi actually is the chieftain of the village, while *pradhan* has been installed by colonial government for rent collection. *Pradhan* is imposed upon us, who could be non-*adivasi*. *Manjhi* cannot be non-tribal.

— Villagers of Kalajora

whereas the duties conferred to these offices are poles apart. *Pradhan* is the creation of law. His duties have been defined in the *patta* granted to him by Deputy Commissioner, which he undertakes to perform by the *kabuliat* executed by him.

Therefore, the traditional *panchayats* of tribes were being subjugated by certain officers of the British administration. Among them, mention can be made of two officers: James Cleveland and A. W. Cossarat. Cleveland became friendly with the Paharia tribes who very successfully endeared them to the British cause. What Cleveland did for the Paharias, A. W. Cossarat was to do for the Santals in the early eighties of the 19<sup>th</sup> century. All attempts were made to pacify these rebellion tribes (Besra 2004).

### CHANGE IN TSG SYSTEM IN POST-COLONIAL PERIOD

Under the forces which were, and are, at work since long, the communal system of Santals has undergone a change. Village is still the basis of communal life; headman (*manjhi*) is still the head of the village community. Formerly, all the dykes, waterholes and village roads were constructed and repaired by the villagers under the guidance of the village headman. Problems arising out of breaches in the water reservoirs or ravages of wild animals or of construction of bunds/ embakements were the problems for the whole village, and not for any individual or individuals. Now with the establishment of block offices, the community spirits of Santals to fulfill their own needs have fallen. The modern state machinery prescribes to go to block office for redress of the grievances. The common responsibility of the entire tribal population has practically become the responsibility of nobody. The village headman was the cornerstone of the institution and the curtailment of his powers has shaken the edifice to the foundation.

*Our TSG system is kept excluded; even Panchayat Act of 1948 also excluded our system.*

— Karnal Soren  
(Teacher in Gopikander)

Police powers of *parganait*s in Damin area had immensely curtailed with the starting of regular police department and police stations. Though the *parganait* can investigate certain crimes under very few sections of Indian Penal Code, but it is not generally practiced. With the decline of the police power of the *pargana*, the incidences of crime in Damin are have increased, although many crimes may not be reported. Previously, *ipso facto* the village council could decide all the petty cases — both civil and criminal. Sex crimes were also suitably dealt with according to their standard. Only the prohibitory sex crimes had to be met by *bitlaha* (the ex-communication).

According to tribal leaders in Khaksa the TSG system has weakened widely. Government actually has weakened the TSG bodies and *pradhans* in Damin area. Say, the powers of settlement of *khas* lands are vested to *pradhan*, but in practice the *karamchari* of revenue department does it.

## Bihar Panchayat Raj Act 1948

Saddest part of the tale is that, like the British, the democratic government of Bihar under a democratic constitution left no stone unturned to do away with this age old democratic institutions. In spite of furthering the cause of the Santal people, repeated legislations were brought forward to put an end to these institutions. The Panchayati Raj Act was brought in by the year 1948. Since the independence, under Bihar Panchayat Act 1948, the institutions of *gram panchayat* working with almost the same objective of the village community system works somewhat at cross purposes and the poor unsophisticated Santal does not know where he stands in between the two for the redress of his grievances. Before Bihar Panchayat Raj Act 1948 the *manjhis* and the *parganaitis* had been entrusted with almost all the powers of the present *gram panchayats*. Later under Bihar Panchayat Raj Act 1948 these *manjhis* had been subjugated to the *gram panchayats* curtailing their hitherto independent powers. This subjugation had far reaching impacts, leaving the *manjhis* powerless, worthless and useless (Besra 2004). They then were made confined to their social functions alone; and in social functions also they became limited to presiding over the marriages, feasts and burial ceremonies. The arbitrary power with respect to village disputes, land disputes and social disputes were transferred to *gram panchayat* jurisdiction. The *manjhis* were now less important than a *panch* of the *panchayat*. They lost their authority as arbitrator and, simultaneously, the tribal people's confidence in *gram panchayat* and the *mukhia/ sarpanch* lessened.

*They have copied our model of panchayats. Like our manjhi they elected sarpanch. Copying our 9 officials in TSG body, the mukhia and up mukhia were nominated. But government learnt superficially. Three cells were built; mukhia was fixed in first, sarpanch in second and, for linking, the gram sabha was placed in the third. For exploiting, looting and imposing corruption and bankruptcy the mukhia and sarpanch had been implanted in our villages. On the contrary, we had to manage everything out of our own resources through our TSG institutions.*

— Mr. Laskar Soren  
(Tribal Leader from  
Narayanpur)

Thus in Santal Parganas two rival systems or local self-governance came into existence. The *gram panchayat* under the authority of the law became superior to the traditional *panchayat* of *manjhis* and *parganaitis*. *Mukhia* treated the *manjhis* as an ordinary citizen, whereas the Santal system or administration that had been functioning satisfactorily since time immemorial was, in law, abolished overnight. The Santal system or traditional *panchayat* didn't die out. It contrarily lived as a living institution among Santals yet without recognition. The *manjhis* continued to be chief arbitrator of the village; and the villagers too did not prefer the *mukhia* to *manjhi*. For, this institution is neither artificial nor a creation of law, but an institution developed over a long period of meditation, experimentation and perfection.

The statutory *panchayat* actually brought in a diarchy in the local self-government in the tribal areas. People even today prefer to register their complaints with the *manjhi* than to *sarpanch*. After so many decades of panchayati raj in Santal Parganas, a tribal still prefer to put his grievances before the *manjhi* of his village.

Moreover, in rural areas the tribals are an easy prey of petty police and forest officials. Thousands of false cases have been instituted against the poor ignorant tribes and they are being harassed in courts of law. For,

*We are capable of doing everything what mukhia does. We can do everything.*

*We don't have any weakness. Despite, the manjhi is not recognized outside the village. It is perhaps the culture of 'percentage' in government system that deprives us from recognition.*

— Mr. Surja Murmu  
(*Manjhi* of Kalidih  
in Khaksa village)

the police and forest officials believe that easy money can only be made by victimizing and prosecuting mute people. Petty land disputes, affrays and like offences afford opportunities to the police officials for intervention. The moneyed people often dispossess the have-nots with the help of these petty officials. It is an open secret that all the rural moneylenders are always in the good books of the police and forest officials. Thus the moneylender, police administration and the law courts have formed a vicious circle in which the poor tribal have been trapped as a helpless prey. Earlier attempts have been made to look into these aspects of the affairs, but all attempts were made half-heartedly leaving the rampant loot unabated.

Seeing the implications of statutory panchayats over the traditional system of governance, the respondents in the sample villages unveiled their observations. Villagers of Bakrabil (Khaksa) reported that the *aam sabha* is organized in the village, but no proper announcement is carried over. Moreover, the people do not participate the *aam sabha* as their needs and aspirations are not taken care of in the plans and hence not fulfilled. Giving the matter positive turn, Mr. Kalidas Murmu, the ex-mukhia of Khaksa, advised that after independence the Indian government would have trained TSG officials to act as panchayat representatives, instead of replacing it by *mukhia* and *sarpanch*.

## Traditional Self-Governance and Contemporary Development

British rulers in one sense were clever since they first fully understood the importance and intervention of TSG institution in private and public lives of tribal families and individuals as entities of social system. They accordingly fabricated the rules and laws to extend their colonization, and strategically not only offered legal validity to the TSG officials but also provided them with controlling powers. It was the intelligent way of harnessing the potential of the community leaders for the purpose of expanding the state and controlling the people at lowest rung. In post independence period the Indian political leadership didn't show trace of such a wisdom. So the Indian state hurriedly created modern panchayat institutions and superimposed on the pre-existed rural governance systems, without giving any thought on blending, adopting or remodelling the old systems. Resultantly, two parallel governance structures have worked or been working in the villages of Santal Parganas having obviously the contradictions. Implications in context of relations of governance bodies with external agencies (responsible mainly for development and administration), development channeled through block office, and TSG as potential vehicle for rural development need to be explored, however.

### TSG INSTITUTIONS, EXTERNAL AGENCIES AND STATUTORY PANCHAYAT

No doubt the primary intention behind instituting the statutory panchayats in villages of Bihar (and Jharkhand) was to create a link body between the block office and rural people. So it was obvious that the external agencies when approached the villages tended to contact the heads of those panchayat institutions. Yet, the respondents of sample villages articulated it in other ways too; thus the observations are illustrated subsequently.

*There could be the  
coordination between TSG  
officials and external people,  
but this coordination is not  
enabled.*

— Mr. Sunil Hambrom  
(Tribal youth from  
Raniganj village)

In Raniganj village, the external people usually contact Ashok Raut who acts as gateway for the village. He intimated, "Outsiders first contact me viewing their easiness in communication, and difficulty to communicate with Santal women in men's absence. Mahadev Soren also helps me in such linkages with the outsiders". Very rarely someone from outside searches for *manjhi*; but if sometimes an outsider contacts the *manjhi*, he entertains him efficiently. In Kalajora too, the external agencies always contact the non-tribals (the gateways) if they bring some development aid to the village. Contrarily, in Udalbani village every outsider first of all looks for the *godait* who facilitates the external agency. *Godait* of Udalbani is an educated young man who is also a good communicator and link man. Outsiders like *gram sevak*, *karamchari*, BDO, CO, etc. seek his assistance when visit the village.

What the tribal people responded on the *mukhia* and *sarpanch* system established under statutory imperatives is bitter. Local residents from Khaksa (Bakrabil) yelled: "Now by imposing on us the *sarpanch-mukhia*, the government wants to spoil and replace our system; has there been

*I think, for well construction  
no heavy engineering is  
required. Our illiterate  
people build it better than  
engineers. Wells built by  
later damage, but built by  
former don't.*

— Mr. Laskar Soren  
(Tribal Leader from  
Narayanpur)

any compensatory mechanism for the decay or damage in our TSG system? Instead of recognizing, paying and appreciating our TSG officials, they are marginalizing our most effective officers. Who is to answer on this?" Sarpanch in Khaksa, Siba Hambrom, residing in Dandu Ghuttu was reported to be idle official. The *mukhia* had to do everything. Similarly, the people in Kalajora reported that the *mukhia* has built his assets, promoted contractors and middlemen, and discriminated in distributing the benefits among community members.

### Development through Mukhia and Block

With a views to integrating the tribal people with the rest of the society and also to bring social, economic and political advancements of the tribal people, the statutory panchayats came to be established in the tribal areas of Jharkhand from the year 1948. Since 1954 the community development programme was trying to improve the economic and social condition of the tribal people. Developmental works concerning irrigation, reclamation and soil conservation, health and rural sanitation, education, communications, rural arts and crafts, cooperation and rural housing etc. have been performed in the tribal areas also (PEARL 2001). As the agencies of development both the *mukhia*, head of statutory panchayat, and block office persisted since 1948. *Mukhia* happened to be active in the villages till the seizure of their powers in 1994 by the Govt. of Bihar. In the sample villages too various development works were completed, while in some of them the works done were reported to be unsatisfactory. Following are the observations of the respondents from sample villages about the development works in their respective villages.

*Till now the external modern  
agencies responsible for  
development tempted to  
exclude this institution, the  
result is no development in  
making. No participation of  
TSG institution in any kind  
of development activity  
caused none of the  
development scheme  
effective and relevant in the  
villages.*

— Mr. Sunil Hansda  
(Teacher of Santali  
language in Mahila  
College, Jamtara)

Road in Raniganj was built 20 years ago under *zila yojana*. The road was constructed using only stones (with no metal) that caused injuries and even death of several persons in the village. Villagers reported that they informed the block quite often, last year SDO, DC, DDC, etc. also visited the village and inspected it, but nothing has happened. The local people do not know the expenditure spent on the road by PWD, which did not consult anyone in the village during or before construction. TSG officials argued, "Had we built it, we must have built it better. Under the leadership of *manjhi* all the villagers would have decided where to build, in this hamlet or in that hamlet. We would also have called upon the labour contribution of the families". Another example of the execution of development scheme was put forward by the community of Raniganj saying, "There were many difficulties in MWS scheme because of the money had been in hands of block officials. If a person didn't dig 40 ft and water arrived, he was not given money, as he didn't dig up to specified depth. What was the fun of digging deeper if water level reached? Similarly, one who couldn't get water even at 40 ft depth, extra money was not given to enable him reach the water level beyond specified depth. Water level is never in the hands of man. But had the money been in the hands of TSG body the people would have settled it,

and applicants in both the conditions must have been compensated adequately by mutual adjustments."

Last year outgoing chief minister of Jharkhand, Mr. Babulal Marandi, launched a scheme of percolation tanks and sanctioned Rs. 70,000 for each panchayat. Gram Vikas Samitis were crafted for the execution of the scheme at panchayat level. The respondents from Ranitaand village enunciated on this matter, "Cheques in installments were given to Gram Vikas Samiti, however, for getting the order of CO the members had to run after the officials. The Samiti on one side had initiated the work by hiring the labourers but on the other side the officials could not become available in time. So the payment of labour couldn't be given in time. Actually for getting the order of CO a percentage of money had to be given to the officials. Again, had this money been in the account of TSG body no loss so would have taken place." In Raniganj village, the tank was built in Kasiidih hamlet. Several persons from among the discussants were unaware of any such tank being built in the village. According to the villagers, "The site on which the tank was constructed last year is perfectly unsuitable. If TSG body would have taken it up the work, it must have built it on most suitable location. They must have judged where was it necessary and where not. Now the engineers selected such a site where even the water does not collect, let alone it will irrigate. There is no catchment visible for the tank. We are surprised how the engineer finalized the site."

*TSG bodies should come forward to demand their rights. They should play leading role in executing the development schemes. The resources that the contractor consumes will then be saved for the betterment of the community.*

— Ms. Sobha Soren  
(Youth from Raniganj  
village, working in  
Mahila College,  
Jamtara)

Sunil Hansda recalled an incidence of Ladhna village, near Raniganj, where a culvert was built. In rainy season water overflows the culvert and one cannot pass from. He articulated, had the work been given to the local villagers they would have assessed realistically how much water could collect in and pass from the culvert. So they must have built it accordingly. Contractors and officers would then have not been fat. Culvert is in bad shape only because the government does not want villagers have power and rights to develop themselves. "The development works avoiding the TSG institution are half done and unsatisfactory, and are detained by middlemen", said the TSG officials of Asanpahari.

Residents of Raniganj village called the *mukhia*, Mr. Nivaran Mandal, for stating before the village council about the works he executed during his tenure, but he despite promise didn't come on fixed date (20 April 2004). So in his absence the people of Raniganj told his progress saying: "He did the maximum work in his village, Chakri; he built here an old school that later ruined. He also get constructed a culvert that couldn't stand undamaged." According to Mr. Ashok Raut, resident of Raniganj, he was mostly to wander on PDS outlets recovering certain fixed quantity of ration as bribe from the shops.

Kalidih hamlet of Khaksa village demonstrated the absence of participation of local residents in development planning or execution. In the past only one IAY house was constructed. There is acute water

shortage in the village. Approach road to Kalidih has completed this year only. No specific meeting took place in the village for deciding the matters in road construction. Only a young man, Mr. Ganesh Murmu, was involved as facilitator of the contractor. *Manjhi* of Kalidih unveiled that the roadwork though was bit satisfactory. However, had it been given to TSG body, they would have built it in better way. They first must have consulted the villagers prior to the construction. They also would have used the appropriate material. But, simultaneously, to make a tank under Marandi's Village Pond scheme a Gram Vikas Samiti comprising 11 members was formed last year under the presidentship of Mr. Subodh Hambrom, the *bhoddo* in both Kalidih sub-TSG body and Khaksa TSG institution. The GVS selected an appropriate site on the private land in the vicinity of grazing ground, and the tank construction work went on smoothly. However, the interests of landowner should not be ignored when the benefits sharing at community level comes as question.

Udalbani village witnessed a different picture. Village is water scarce, as drinking water is brought from distance. There are 2 drinking wells built by the elder residents. Government built no well in the village so far. There is one seasonal stream also flows from, which originates in adjacent Talidih village. Farmers embank the stream from here and there and irrigate their crop fields. No fishing is allowed in the stream. School's functioning in Udalbani is not satisfactory, so the families prefer sending their children to Kuschiha village. Moreover, Kalajora saw no government health worker in the village since 1988, while the village is situated in the vicinity of Pakur town.

Lakdaphaila and Kumarbandh displayed a mixed progress in relation to development works in the villages. In the name of development in Lakdaphaila one can find several IAY houses in which some families reside. About 5 years ago the block office through a contractor built a well that has already damaged. On the contrarily the well built by *dahri* is still operational. As the villagers said, the *mukhia* of the panchayat did nothing considerable in the village. Approach road to Kumarbandh village is under construction, IAY houses in 12-14 number stand in Latartola hamlet of the village along with the *aanganwadi* centre and primary school.

### TSG AND DEVELOPMENT

Jalesar Besra of Dahardih of Raniganj recalled his old days when his hamlet was established by 11 families. Maximum number of families had lands over that site for house construction. For those who had no land for house building, the other families spared collectively a piece of land for that particular family. In that way all adjusted in given area of land in the hamlet. It was the cooperative spirit of development among the community members. On the question, does it happen today, he replied: this occurrence of cooperation still exists but due to extended families

and their heightened requirements of lands the majority of people do not like to spare land. Yet, people want to help others. Moreover, in tribal society, to help one another the community has developed a cooperative system called *pethi*. When a family has farm work, he calls one plough with a man from each of families in the village. In this way, the work on one's farm is completed in a day only. The same family in return contributes if other invites for help.

Expressed the respondents from Lakdaphaila village, "TSG officials have greater wisdom about the village, they can do best work. Bureaucracy, officialdom and middlemen (dalal) for their interests do not want to devolve the power to us. They select a *boka* man (fool or dishonest person) of the village and use him as shield and loot the *malai* (cream)." The TSG institutions during investigations were found having clearcut vision for the development of their villages. Say, for the development of his village the *manjhi* of Kalidih shared his positive thinking. He advised: "There are two streams around this hamlet. We have lands, we have streams. At the moment we make tiny embakements, we are not able to store more waters to irrigate lands on little big scale. We all villagers thought to collect the waters in tank located upstream by constructing embankment. Then we might have got whole set of lands irrigated in Kalidih. This idea could not be implemented in lack of funds available. So now the few farmers are able to lift the water through pump from the stream."

*Myth that the villagers cannot do development is virtually an exclusion. Turban of manjhi has been snatched away by block officials. Our officials remained excluded from rural governance. TSG officials otherwise can do development works better.*

— Mr. Sunil Hansda  
(Teacher of Santali language in Mahila College, Jamtara)

Correspondingly, in Raniganj there is a huge playground in which the football is played since 1989. As TSG officials communicated, they invited all apex officers in the district to see the ground and do something for its development. They want their Youth Club be registered and affiliated to government agencies. Further, *manjhi* of Raniganj built a bridge on a seasonal stream in the village with the support of block. The bridge structure still stands alive, while the earthen embankments have abolished under heavy water currents. On this the *manjhi* unearthed, "We may die but this bridge would not damage. See, the overseer designed this structure. I suggested him to assess the volume of currents first, but he underestimated the flow and allowed the construction of this small bridge. He was not aware that the runoff from whole Jamtara passes through this stream. I asked him to make two passages for water by increasing the length of the bridge. He didn't care. Today you may see the outcome: the earthen embankments wiped out in the first rains due to intense currents."

Conversely, the grazing ground in Raniganj village lies in highly degraded form twin with intensive soil erosion. TSG body has no plan for the regeneration/ restoration. Trees are dying automatically of soil erosion. Additionally, Ms. Sobha Soren pointed out the weakness of TSG system in relation to promotion of education, by stating: "They (the TSG officials) should take interests. Whose child is going to school, and whose not, they should keep account and do efforts for improving education. Currently

they do not sufficiently stress upon. Actually the TSG system is rarely promoting the education of both boys and girls. They should organize special meetings, or should raise issue in routine meetings. In fact their influence over the people is downright; if they knock the guardians none would resist, and perhaps parents would tend to educate their children. Everyone respects his or her words. Even today their words are respected."

Can they execute the development projects? The *godait* and *manjhi* of Udalbani admirably responded on the question: "We have many educated people in the village who would collectively handle the development schemes. In our village we are competent enough in delivering the development works; earlier too we have efficiently completed the pond, well, path, etc. construction in the village. Here quite big things had happened in the past, we had settled everything. Once police caught the TSG officials, we reconciled the matters. So why could we loose the inflow of development benefits to our community? We have already disposed off the development works channeled from block office; say, the *kulhi* of Manjhitola was once in worst condition, we repaired and constructed in a better way."

Like many others, the *manjhi cum pradhan* in Kalajora village is aware of the government schemes being implemented in the villages. He told that the VLW etc. earlier had to contact *mukhia*, but now they come to us. We, the TSG officials, along with the village community hold the *aam sabha* and think over about the improvement in our conditions. When approach road was built in Kalajora the TSG officials demanded to build it themselves, and so they constructed it very nicely. In the same way *dahri* of Lakdaphaila village ever worked in the best interests of the community. He by virtue of his networking with the block officials got the money and with the involvement of village community built the *chabutra* (sitting place). He also pursued the establishment of SSA school in the village, and arranged one teacher from Kathikund to teach in the village.

Above discussion reflects that since independence the development agencies at the lowest level continued to link with the officials of statutory panchayats that largely failed particularly in ensuring the participation of local community. As a result, whatever the development aid percolated to the village could not become accountable to the people leaving dissatisfaction among them. Moreover, the panchayats tended to comprise a dozen or more number of villages, which made *mukhia* relatively ignorant of realities of each village. Due to middlemanship and contractorship ever prevailed in block office and statutory panchayats in Santal Parganas, the community didn't find space to act, execute, monitor or simply involve. TSG institutions, contrarily, have multiple advantages in this respect. First of all they are village centric and mostly have fine information about the village, regarding its topography, resources, people, families, social relations, economy and land, power relations, etc. Comparatively higher degree of community participation in

the activities regulated by TSG bodies is an additional merit. The vision about the development of their villages and capacity to deliver the development functions have been explored among the TSG institutions in sample villages, as described above; yet, these capacities vary village to village and as per the priority of people. As regard of managing the relations with external agencies and development officials, the TSG officials (one or two, if not all) of some villages exhibited their capacities to handle the outsiders. However, these capacities can never be static; they can improve depending on the opportunities the TSG officials may likely obtain to interact with external people. Obviously, as of now every one of TSG officials is not able to properly handle the external agencies as he/she ever remained in isolation of modern functionaries. Nevertheless, their wisdom cannot be undermined for any reason.

# Traditional Self-Governance or New Panchayati Raj: Towards Reconciliation

Jharkhand state since its formation is passing through a dialectical situations taking the election of panchayat bodies. The politics of local self-governance has reached the point where it has become difficult for the government to hold the elections, as several tribal groups including Santals have started demanding no election once the TSG institutions already exist in their villages. The existing panchayat Act of Jharkhand also has disparity vis-à-vis the central PESA 1996 passed by the parliament. So in the present study it was tried to look into the possibilities of the reconciliation.

## CONSTITUTIONAL IMPERATIVES AND TSG

After independence the Constituent Assembly discussed the administration and governance of tribal areas, and accepted that the governance and social system in the tribal societies is different, and, therefore, there existed a need to continue the special provisions for governance and administration of tribal areas. Resultantly, for ensuring the autonomy in the tribal areas, two schedules — fifth schedule and sixth schedule — were incorporated in Indian Constitution. Sixth Schedule was executed in north-eastern parts of India while Fifth Schedule was implemented in 9 states of the country. Under Fifth Schedule, the Governor of the state was empowered to administer the tribal areas with the help of Tribal Advisory Council; but the situation of this Indian state controlled governance not only emerged as undemocratic but also irreversibly harmed the tribal societies (Sharma 2001).

It was only Late Rajiv Gandhi who felt the unfulfillment of Article-40 and the necessity of the amendment of Constitution of India to make a way for *gram panchayat* to act as local units of democratic governance. In 1992, thus, the Parliament amended the Constitution and the provisions for panchayati raj were made in Part-IX of Constitution of India, that were not applicable in Scheduled Areas.

Following a nationwide movement of the tribal people for tribal self-rule, the Ministry of Rural Development, Govt. of India constituted a committee of select Members of Parliament and experts under chairmanship of Dilip Singh Bhuria. Consisting of 7 members the Bhuria Committee submitted its report on 17 January 1995. Meanwhile the Bihar legislature enacted the new Bihar Panchayat Act 1993 repealing previous Bihar Panchayat Act 1948 and Bihar Panchayat Samiti and Zila Parishad Act 1961. This Act was enacted in consequence upon the changes incorporated in The Constitution (73<sup>rd</sup> Amendment) Act 1992, which amended the Part-IX of the Constitution. The Bihar Panchayat Act 1993 was applicable in whole Bihar but it, unfortunately, ignored the directions given in Article-243M. So the authenticity of this Act was challenged in the High Court of Patna under Article-226 by Dr. Basudev Besra, an eminent lawyer (Basudev Besra vs. Union of India,

1996(1)PLJR261) (Gupta 2002). Divisional Bench comprising of Mr. Justice D. P. Wadhwa, the Chief Justice of High Court and Mr. Justice S. J. Mukhopadhyay observed while deciding this matter that:

“Article-243M is quite explicit. It is, therefore. Clear that the provisions of the Act in so far as these are relatable to those contained in Part-IX would not be applicable to Scheduled Areas. It was not disputed before us that the provisions of Part-IX as contained in the Act are so intermingled with other provisions of the Act that it is difficult to separate them. As a matter of fact, Part-IX of the Constitution provides as that what is Gram Sabha and also the constitution and composition of Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part. Then there other provision for reservation of seats for the Scheduled Castes, the Scheduled Tribes and the women falling in both the above categories and also general category. This part also prescribes the powers that could be conferred to the Panchayats and their authority and responsibilities. There is then provision for imposition of taxes etc. by the Panchayats; the constitution of Finance Commission to review financial position and the audit of accounts of the Panchayats and the election of the Panchayats. Based on these very provisions the Act has been made applicable to the Scheduled Areas in a skeleton form.”

And the Bench lastly held that Bihar Panchayat Act 1993 shall not apply in Scheduled Areas of Bihar (i.e. Jharkhand). Side by side in 1996, on recommendations of the Bhuria Committee the Indian Parliament enacted the historic ‘Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996’. The Act meant to give the traditional panchayat of tribes a statutory status in a democratic manner. The formal institutions were declared illegal under the new provisions of the Constitution and the traditional institutions of the tribal areas were recognized as legal. This Act intends to provide the tribals self-rule and right for self-determination. But viewing tardy progress in other states where self-governance or self-rule has been still a distant dream in the scheduled areas, the tribal people of Jharkhand are continuously protesting the election of panchayats (JPRSSS 2003-04). Once the Jharkhand became the separate state, in April 2001 the government brought in Jharkhand Panchayat Raj Act 2001 claiming the incorporation of all the provisions of PESA 1996, and giving the powers of the *gram sabha* (equivalent to *manjhi baisi* among Santals and *hatu panch* among Mundas and Oraon) and the *panchayats* on different levels. But soon this Act itself became an issue of controversies in the scheduled areas of Jharkhand. Even when it has been amended in 2003, but again it has been challenged in the High Court of Ranchi by Dr. Basudev Besra.

### NEW PANCHAYAT LEGISLATION FOR SCHEDULED AREAS AND TSG

For the Scheduled Areas the PESA appeared to be the assured solution for self-governance. In different corners of the country and Jharkhand the tribal people applauded the verdict of apex legislative. However, the contours of the Act, it seems, are not clear to legislative and executive in Jharkhand. The case in point is that the Deputy Commissioner of Dumka distributed a letter no. 888 dated 28<sup>th</sup> June 1999 to all the BDOs of the district and asked them to select the members of Panchayat Vigilance Committee, whereas the Act provides that such Vigilance Committee will be appointed by the *gram sabha*. This mischief is aimed at to subvert the provision laid down by an Act of Parliament (Besra 2004). Trusting in the Act, the tribal respondents in Kumarbandh, Lakdaphaila and Asanpahari villages orated, no problem if central PESA is implemented in true essence. But the State Government is subjectively imposing the new panchayats. New panchayats of *mukhia* kind will certainly disintegrate our society. Similarly, the tribal respondents of Kalajora apprehended and alluded to that the official messenger as of now usually drops the message in Telitola situated on the road, so *aam sabha* is organized by non-tribal inhabitants without informing and involving the Santals who

#### **Box . 3 : Direct Testimony of Manjhi and Godait of Udalbani**

On the establishment of PRIs vis-à-vis the TSG bodies, there must be the conflicts between the two institutions and their leaders. Heads of both the institutions will attempt to regulate and control the people's lives and resources in the village and external inflow of means and assets. The PRI head may not be able to handle the revenue affairs, judicial matters and socio-religious activities in the village. Better if the TSG institution is diversified and adopted into proposed *gram sabha* under panchayati raj. This would be the internalization of alien PRI into the indigenous system of governance. TSG system will in turn also be remodeled. This would be a comfortable combination of the two if both are blended together. Otherwise none can escape from severe contradictions and clashes.

are albeit in majority. They termed this a kind of 'exclusion' from the governance domain. They were skeptical about the fate of new panchayats under PESA or separate Act of Jharkhand.

Conspiracy over the Jharkhand Panchayat Raj Act 2001 is another classical example of the fate of PESA in Jharkhand. The JPRA 2001 has so many contradictions vis-à-vis PESA in relation to distribution of powers amid different tiers of PRIs, territorial expansion of *gram sabha*, confused delegation of powers between *gram panchayat* and *gram sabha* and overlapping of power delegations to *gram sabha* and other PRIs in specific context of controlling the minor minerals, money lending, minor water bodies, NTFPs, land alienation, local plans (including tribal sub-plans) and social sector functionaries. The study of ELDF has also pointed out the conflicts between JPRA and the specific state laws concerning minor water bodies, NTFPs, land alienation and land recovery and intoxicants (PRIA 2004). Responding to the protest of non-tribals on the reservation of the posts in JPRA of *up-mukhia* in *gram panchayat*, *up-pramukh* in *panchayat samiti* and vice-president of *zila parishad*, whereas the PESA

only provided with the reservation of the posts of *mukhia*, *pramukh* and president, the legislative assembly of Jharkhand on 10 October 2003 passed the Jharkhand Panchayat Raj (Amendment) Bill 2003 in order to dereserve the said posts (JPRSSS 2003). The said Bill also incorporated the dereservation of the post of chairmanship of *gram sabha*, which was previously reserved exclusively for the tribes irrespective of the fact whether the village has no tribal family. Now again in 2004 the amended JPRA has been challenged in High Court of Ranchi (PIL5740/2003, Dr. Basudev Besra vs. Union of India and State of Jharkhand).

Panchayat election has also been a contentious issue in Jharkhand. No political party heartedly wishes to hold the elections in the state due to complex reasons. Fragile politics in the state does not allow anyone to dare for. Yet, the civil society actors continue lobbying the politicians and litigating in High Court of Ranchi. The post of State Election Commissioner has also been challenged. Opposite the flood of petitions, mainly filed by non-tribals, in High Court challenging the reservation clauses in the JPRS, the organizations like JOHAR of Chaibasa, SAATHI of Dumka and individual lawyer, Dr. Basudev Besra, from Jamtara petitioned in High Court advocating the inconsistency between the JPRA and TSG systems of tribes in Jharkhand. All have arguments in favour of traditional governance system of the tribes. Dr. Besra even drafted an alternative Panchayat Act for the Scheduled Areas of the state (Besra 2003b) and submitted to the legislative assembly before release of Jharkhand Panchayat Raj (Amendment) Bill 2003.

### TOWARDS RECONCILIATION

“*Mukhia* should be elected as soon as possible, otherwise the development of villages cannot speed up”, echoed the villagers of Kumarbandh village. But before the election there are several *mêlées*, which need to be reconciled. They are: What should be the shape of *gram sabha* and other PRIs inheriting what type of power/ functional relationships? Though the JPRA has recognized the traditional head of the village as chairperson of *gram sabha*, but should the entire TSG body be accepted as anchoring the *gram sabha*? If not, how would the TSG institution at village level linked/ integrated in the *gram sabha* or *gram panchayat*. In case the TSG institution is accepted or integrated into *gram sabha*, the *gram panchayat* will have to devolve majority of the powers (as also provided by PESA) to the *gram sabha*; what will be the consequences in the condition the JPRA at present bears the contradictory provisions sanctioning powers to *gram panchayat* or above PRIs vis-à-vis *gram sabha*? Will the TSG institutions continue functioning with what consequences, if they are not duly integrated/adopted/ accepted? The matters indeed roll up into complicated affairs both at the helm of government and the civil society actors. The issue is too compound to resolve easily and to arrive at one conclusion.

*The manjhis can also do the work of mukhia. However, their functional efficiency depends on how much the officialdom at block and circle level will cooperate, as it influences the efficacy of implementation of schemes.*

— Mr. Kalidas Murmu,  
Ex-*Mukhia* and  
Ex-MLA from  
Khaksa village

Tribal communities, however, mostly favour the due recognition and allocation of space for TSG institutions in new PRIs at appropriate level. JPRA undoubtedly has recognized the TSG bodies to be incorporated in *gram sabha*, but it is the matter who will hold the string, viz. who will vest the powers most and control over the resources including finance? Unarguably, the JPRA attracts comprehensive reformation to truly inculcate the spirits of PESA, which provides for the *gram sabha* with majority of the powers. Now the debate encompasses on whether the whole TSG body at village level be accepted to anchor the *gram sabha* and be modified/diversified accordingly. As JPRA also recognized the

**Box . 4 : Direct Testimony of Tribal Leaders**

**Q.** How can the development be linked, and how the arrangements be made in villages where non-tribals reside in the ratio of half or more than half of total population?

**Sunil Hansda:** The *manjhi* of the village would be *ex officio* president of *gram sabha*. Nine members of TSG body will represent the PRI at village level. Non-tribals would be taken as members of *gram sabha*. Involving TSG in this way in the local governance will facilitate the development works too.

**Q.** Since the non-tribals also want to remain head of PRIs, what would be the arrangement then?

**Sunil Hansda:** This is the Scheduled Area, the head of PRI must be tribal only. So equal cooperation of non-tribals is also sought to make the panchayats to succeed.

**Q.** How does the TSG body fit in panchayat frame, or is balanced vis-à-vis a panchayat? Say, a TSG official controls and looks after entire village, while the *member* in PRI has concern with corresponding ward only.

**Laskar Soren:** We are least concerned with *mukhia*, *up mukhia*, *sarpanch*, *up sarpanch* or *panch* (member); we don't want new structures. We don't perceive any relevance of new names of village heads. Why don't the *manjhi* remain as head of village and others as his associates in governing the system. Why is it Scheduled Area declared in the Constitution? It is so the tribal right to have the village governance system customary/ traditional and as per our will. If it is tribal area, it has to work as per tribals' will. For the non-tribals, they can represent according to TSG officials. There can be 9 *purohits*, there can be 9 *molanas*. Our *manjhi-hadam* is the deity, not merely a human being. He always works drawing the spiritual energies.

*pradhan* or *manjhi* as the chairperson of *gram sabha*, but in case of the villages where *pradhan* and *manjhi* are two separate persons, it will obviously generate troubles. Particularly, the community would not accept the *pradhan* as head of *gram sabha* if the *manjhi* also exist there. Another problem with the *pradhan* as chairperson of *gram sabha* must arise, and that relates with the election/ selection of chairperson. In fact the *pradhan* since its creation during colonial rule is the post of headman which is made to be hereditary, that, on the contrary, is not the case with *manjhi*. *Manjhi* as norm has to be elected every year. In recent times, though, the *manjhi* also turned to be hereditary; it, actually, came into being after the British appointed the *manjhis* as *pradhans* too. Heading towards the reconciliation the tribal leaders have given their opinions (see Box.4), which need to be taken into account. The

alternative draft of JPRA (Besra 2003b) prepared by legal expert, Dr. Basudev Besra, is more squarely authentic in a bid to reconcile this matter.

Further complicated issue, as a matter of concern, is the mandatory participation of women in PRIs as provided by 73<sup>rd</sup> Constitutional Amendment and the central PESA. Most problematic thing would be the one-third representation of women in *gram sabha* and reservation of women (on rotational basis) on the post of head of *gram sabha*. In the condition the TSG body at village level is adopted/ integrated the community will at one time may accept the representation of women as *members* in the house, but at other time will be uncomfortable in accepting the woman's headship (*manjhi* or *pradhan*). This qualmlessly is going to become great source of conflict even if the TSG body is not wholly integrated/adopted. Santal community particularly is more orthodox in this connection. Tribal respondents of many of sample villages although sermonized in favour of women representation even on the post of *manjhi*. Yet, the response of community at large and the elders specially has not been very supportive. However, the hopes can be weaved if the women themselves come out of the veil, which essentially attracts a heavy input of mass education.

## Conclusion: Can Traditional Self-Governance Work?

From the study it has been revealed that the tribal people in Jharkhand are amply organized to assert their citizenship rights. Voicing for the 'self-determination of self-rule' is commendably the articulation of tribal constituency that has risen only in this part of the country. In light of Constitutional provisions and the landmark legislation for Scheduled Areas, the PESA, the agitating tribal groups or their representatives have referred the 'traditions, customs and culture' of tribes to be the basis of future local governance frameworks and arrangements. Arguing in support of old-aged traditional self-governance (TSG) system and advocating its furtherance and perpetuity as replacement of Constitutional PRIs, is linked to what is internationally acclaimed to be the tribals' *right to self-determination* of their future. Quintessentially, this does not restrict to 'self determination' about land and resources in tribal territories; but this relates to the 'real future', viz. who to govern the lives and destiny of tribes. Furthering the trend of leading the debates on political identity, Jharkhand was the first to raise the voices against uniform execution of 73<sup>rd</sup> Constitutional Amendments, and demanded the formulation of separate legislation for Scheduled Areas (so PESA is the outcome). Following the same trend, the state on lines of Sixth Scheduled Area has raised demands of recognizing, adopting, accommodating the existing TSG institutions as such, and not to constitute parallel panchayats.

During the course of study it has been reasonably proved that the TSG institutions at micro level are more or less active among Santal community, while they have by and large disappeared or eroded to greater extent among Paharia provided the Paharia villages are not located in remotest/forested tracts. In the villages where Santals or Paharia are in minority and non-tribes have dominated them in power balance, these tribal institutions have also lost their intactness. But, generally speaking, the TSG institutions of Santals, or led by Santals, at village level are still in good shape. They have copious capacities to deliver the functions of executive, judiciary and development agencies. The TSG institutions at above level, i.e. *pargana, dehri*, do not appear alive and active desirably.

*Power for governing the village assembly should remain with manjhi. This is our right. TSG body will look after the village appropriately.*

— Mr. Sunil Murmu  
(Youth from  
Ranitaand)

Together with PESA, the JPRA, the state legislation on panchayats, has also recognized TSG institutions, but partially. Moreover, there is a great confusion in the allocation of powers to *gram sabha* vis-à-vis PRIs at above level i.e. *gram panchayat, panchayat samiti* and *zila parishad*. Secondly, once the JPRA assigned the post of head of *gram sabha* to the traditional head of village (*pradhan, manjhi, munda, pahan*, etc.), but the TSG institutions, as a whole has not been taken into account. It indicates that the 'two' governance institutions will again persist parallel in the village, which will be ultimately disastrous. While the JPRA needs to be revised comprehensively in line with the true spirits of PESA, the TSG institutions at village level have to be accommodated/ integrated as/into *gram sabha*, and ultimate powers have to be allocated to *gram sabha* for bringing in real grassroots democracy. The TSG institutions may

appropriately be remodeled/diversified. For the villages where tribes are totally absent, the *gram sabha* can be constituted involving the local electorate, as it has to be constituted in non-Scheduled Areas.

Most problematic thing would be the one-third representation of women in *gram sabha* and reservation of women (on rotational basis) on the post of head of *gram sabha*. In the condition the TSG body at village level is

**Box .5: Arguments and Counter-Arguments**

For those villages where tribals live in minority, can *manjhi* govern such territories? Replying to the question, the village council of Raniganj argued: "In the non-tribal society, there is much hierarchy and not a trace of such TSG exists. Here if Santal families exist counting though on fingertips, everybody will be able to locate the *manjhi-hadam*. Contrarily, the non-tribals will not be able to tell you anyone as they do not have such an organic institution that has capacity to bind together hundred of families. Under the patronage of these traditional officials everything can be made possible in the village that may serve collective needs. No doubt the TSG institution may constitute the officials from among non-tribals other than *manjhi*. It can work." In Karanpur, as per Sunil Hansda, about 90 percent are Muslims. Yet, the TSG institution of Santals works there. Though the Muslim community does not faith religiously in TSG bodies, they follow the TSG in social and development affairs. To put apart, the case of Kalajora deviates, where the Muslim and Teli communities coexisting Santals not only disbelieve in TSG institution of Santals but also ignore them.

Residents of Ranitaand further argued: "There is a crisis of people's participation in *gram sabha* meetings of elected panchayats everywhere in the country. While, contrarily, the TSG institution easily ensures the public participation. Field investigation reveal that in case of TSG body meeting, if the invitation has been received personally or collectively it is must for a person to attend. Everybody is allowed to speak, and equally treated in the meeting. This is not the case with modern PRIs. Time and place are major considerations for fixing the meetings of TSG. However, the emergency meeting needs not to recognize the time, it can be called at midnight and people have to attend. Normally, the time is set as per situation and weather conditions. Place is selected on the basis of the case having its jurisprudential territory. Which hamlet the case relates to is selected for the meeting so that the inquiry, inspection or verification is made easily."

Non-tribals usually argue that the tribal people have bad habits of drinking, so their TSG bodies do not function effectively. They allege that the tribals intoxicated with the liquor loose the sense to behave normally when performing in village council, any *baisi* or other developmental work. Similar responses came forward from non-tribals of Kalajora village. Sunder Murmu, *manjhi* of Raniganj, clarified this matter. According to him, only *ranu bakhar* is allowed at home; and only home-made wine is allowed on the *baisi* is over, as it is prepared after worship. In rituals of Santals the *bakhar* is only allowed. Due to influence of market culture the people (outside *baisi*) have no doubt started taking English liquor which is bound to affect the health.

adopted/ integrated the community will at one time may accept the representation of women as *members* in the house, but at other time will be uncomfortable in accepting the woman's headship (*manjhi* or *pradhan*). The response of community at large and the elders specially has not been very supportive to the woman in the capacity of head of village council.

*We seek our TSG system  
must be adopted as such,  
and if any officer commits  
mistake, let he be corrected.*

— Mr. Thudu Baski  
(Lasser Tengoe' in  
TSG Body of  
Ranitaand)

Whether the TSG institutions can work as PRIs or not has been although debated in previous chapter. However, the statements of the tribal respondents in support are given in Box.5.

Lastly, the matter of creating multiple sub-committees at village level is also crucial in terms of its implications on *gram sabha* if constituted in consonance of TSG bodies. Legibly, this model in JPRA has been copied from *gram sawarj* model of Madhya Pradesh where the multiple layers of crafted institutions have generated tremendous confusion among the villagers. This proposition of sub-committees at *gram sabha* level cannot work particularly when TSG institutions already consist of specialization and corresponding jurisdictional cells within it.

Finally, let alone the insensitivity and ignorance of bureaucracy and polity in the state, the tussle of 'modernists' and 'traditionalists' need to be melted down. Modernists disbelieve in the communities and their inherited capacities to deal with the relatively modern issues of development in the villages. And they look forward the creation of new structures/institutions attracting need-based infusion of capacities of handling the projects/plans, and that by applying alien principles of participation they would execute the development. Their way of looking at the PRIs at micro level is in fact the narrow way of looking at the 'governance' at grassroots. There is a latent tendency in this modernist vision that deems the PRIs simply the 'vehicles' of inoculating the development. Here issues of equity, inclusion, indigenization, self-reliance, and alike take backseat. On the contrary, the traditionalists, quite often, tend to romanticize the realities of tribal lives in contemporary India. However, what they legitimately put forward is the appeal to indigenize the 'development' as if the tribal communities (not individuals) matter, instead of imposing the alien models/modes of development. According to them the development has to be more humane faced and should not affect the tribes negatively. As a process of progress, traditionalists demonstrate, the tribal people have tested vernacular versions of development, justice, equity and fraternity based on localized wisdoms. Yet, they bypass the realities of increasing breakdown of isolation/ primitiveness of the tribal communities in the country, which manifested the degradation of culture, traditions, values, customs, ethnicity, etc. However, the civilization of tribes (not of acculturated/detribalized tribes) still is superior to that of non-tribes. Baptizing them uncivilized/savaged is unjust, as the 'civilization' is a relative term. We, no doubt, have much to learn from these traditional communities. So is the 'governance', though it may not be found in virgin form at some places. British were clever enough in this respect who recognized and used the traditional governance system for mainstreaming their agendas; yet, it was, and is, an exploitative view. Setting aside all, the traditionalists, however, must have to realize that the tribal territories are ultimately the part of the same nation-state where non-tribes live (though it is nationalist view, which in itself is imperialistic);

thereby, under circumstantial imperatives, the tribal communities are guided to follow the universal model of development and governance.

So actively considering the above dialectics one has to stop somewhere and to begin with. See, both old and new systems of governance have their own weaknesses and strengths, which may form the basis for reconciling the tedious issue. Therefore, 'blending' is last retreat. So are the sketchy recommendations of this study.

## References

- Archer, W. G., 1984. *Tribal Law and Justice*. New Delhi: Concept Publishing Company.
- Bailey, F., 1961. Tribe and Caste in Indian Sociology. *Contributions to Indian Sociology*, 5(1): 7-19.
- Besra, B., 2003a. *Santal Pargana Mein Bhumi Qanoon (Land laws in Santal Pargana)*. Jamtara, Jharkhand: Santal Education Institute.
- Besra, B., 2003b. Jharkhand ke Anusuchit Kchhetron Par Vistaar Adhinyam, alternative draft Act. Dr. Basudev Besra, Jamtara.
- Besra, B., 2004. The Santal and Law. Unpublished work.
- Chaudhury, P. C. R., 1965. *Santal Parganas Gazetteer*. Patna: Bihar Secretariat Press.
- Corbridge, S., 2003. The ideology of tribal economy and society: Politics in Jharkhand, 1950-1980, in R. D. Munda and S. Bosu Mullick (eds.), *The Jharkhand Movement: Indigenous People's Struggle for Autonomy in India*. Copenhagen: IWGIA, and Chaibasa: BIRSA.
- Cosserat, A. W., 1880. Official letter no. 185T written to Govt. of Bengal, 7 July 1880, cited in Gantzer's Settlement Report, 1936.
- Dhebar, U. N. (chairman), 1962. *Report of the Scheduled Castes and Scheduled Tribes Commission*. New Delhi: Govt. of India Press.
- Ekka, P., 2003. *Tribal Movements - A Study of Social Change*. Pathalgaon, Jashpur: Tribal Research and Documentation Centre.
- Gantzer, 1936. *Final Report on the Survey and Settlement Operations in the District of Santal Parganas, 1922-1935*. Calcutta: Bengal Secretariat Book Depot.
- Govt. of Bihar, 1954. Standing order no. 14/53-54 (SPM 487-89), *Gazette Notification*. Patna: Bihar Govt. Press.
- Gupta, J. P., 2002. *The Customary Laws of Munda and Oraon*. Ranchi: Jharkhand Tribal Welfare Research Institute.
- Hamilton, B., 1938. In R. M. Martin (ed.), *Eastern India*, vol. 1, London.
- Jones, S., 1978. Tribal Underdevelopment in India, *Development and Change* 9:41-70.
- JPRSSS, 2003-04. Official memos, released between 2003 and 2004. Dumka: Jharkhand Panchayati Raj Swashashan Samanvay Samiti (JPRSSS).

- Mandelbaum, D., 1970. *Society in India*, 2 vols. Berkeley: University of California Press.
- McPherson, H., 1909. *Final Report on the 1st Survey and Settlement Operations in the District of Santal Parganas, 1898-1907*. Calcutta: Bengal Secretariat Book Depot.
- McPherson, H., 1913. *Final Report on the 11nd Survey and Settlement Operations in the District of Santal Parganas, 1905-1912*. Calcutta: Bengal Secretariat Book Depot.
- Paul, S., 2003. Hashiye se hukumat tak. In Sudhi Paul and Ranendra (eds.), *Panchayati Raj - Hashiye Se Hukumat Tak*. Panchkula: Adhaar Publication.
- PEARL, 2001. *Participatory Development and Traditional Democratic Institutions*. Ranchi: Participatory Education Action Research & Learning (PEARL).
- Prasad, B. M., 2002. *Santhal Parganas Tenancy Manual (revised & enlarged)*. Patna: Malhotra Brothers.
- PRIA, 2004. *Tribal Self-Rule in Jharkhand: Implications of Jharkhand Panchayat Raj Adhinyam, 2001 in Scheduled Areas (draft report)*. New Delhi: Society for Participatory Research in Asia (PRIA).
- Rao, N., 2003. Life and Livelihood in Santal Parganas: Does the right to livelihood really exist? *Economic and Political Weekly*, September 27: 4081-84.
- Riyaz, M., 2003. *Santal Vidroh 1855*. Dumka: Santal Academy of Sidho-Kanhu University.
- Schermerhorn, R. A., 1978. *Ethnic Plurality in India*. Tucson: University of Arizona Press.
- Sharan, R., Singh, P. K. and Sahu, S. P., 2003. Adivasiyon ki swa-shashan vyavastha: vartmaan stithi. In Sudhi Paul and Ranendra (eds.), *Panchayati Raj - Hashiye Se Hukumat Tak*. Panchkula: Adhaar Publication.
- Sharma, B. D., 2001. *Tribal Affairs in India: The Crucial Transition*. New Delhi: Sahyog Pustak Kuteer.
- Singh, K. S., 1990. *Tribes of India*. New Delhi: Oxford University Press.

## ANNEXURE - I: FUNDAMENTAL DIFFERENCES BETWEEN TRIBAL AND MODERN SOCIETIES

Jurisdiction	Tribal Society (central values)	Modern Societies (effective values)
Nature (land, water, forests)	<ul style="list-style-type: none"> <li>- Conducive and symbiotic relationships</li> <li>- Balance with the environment</li> <li>- Communal tenure on land and nontransferable property</li> </ul>	<ul style="list-style-type: none"> <li>- Exploitative relations</li> <li>- Tendency of conquering the nature</li> <li>- Nature considered as commodity</li> </ul>
Economy	<ul style="list-style-type: none"> <li>- Collectiveness</li> <li>- Fraternity</li> <li>- Cooperation</li> <li>- Short-term life-sustenance</li> <li>- Material exchange oriented</li> <li>- Decentralization</li> <li>- Distribution centred</li> <li>- Defense centred</li> </ul>	<ul style="list-style-type: none"> <li>- Individualism</li> <li>- Private property</li> <li>- Competition "survival of the fittest"</li> <li>- Saving/profit oriented</li> <li>- Currency exchange based</li> <li>- Collection and consumption based</li> <li>- Personal benefit</li> <li>- Consumerism</li> <li>- Centralization based</li> </ul>
Social System	<ul style="list-style-type: none"> <li>- Equity based</li> <li>- Gender equity</li> <li>- Respect for labour</li> <li>- Importance to socialism</li> <li>- Individual as member of community</li> <li>- Cooperation</li> <li>- Hospitality</li> </ul>	<ul style="list-style-type: none"> <li>- Inequity</li> <li>- Paternalistic</li> <li>- Individualism</li> <li>- Competition</li> </ul>
Politics	<ul style="list-style-type: none"> <li>- Self rule</li> <li>- Participatory democracy</li> <li>- Decision by common consensus</li> <li>- People centred</li> </ul>	<ul style="list-style-type: none"> <li>- Representative democracy</li> <li>- 'Might rules' politics</li> <li>- Bureaucratic and authoritative</li> </ul>
Culture	<ul style="list-style-type: none"> <li>- Interwoven in nature</li> <li>- Mutual complimentarity with elements of universe</li> </ul>	<ul style="list-style-type: none"> <li>- Culture above nature</li> <li>- Man to triumph the nature</li> </ul>
Literature, Art and Music	<ul style="list-style-type: none"> <li>- People centred</li> <li>- Collective expression</li> <li>- Participation</li> </ul>	<ul style="list-style-type: none"> <li>- Urbanization</li> <li>- Show bizz</li> <li>- Commercialization of art</li> </ul>
Religion	<ul style="list-style-type: none"> <li>- Cosmic</li> <li>- Naturalistic</li> <li>- Intrinsically related with the nature</li> <li>- Socially regulated behaviour</li> </ul>	<ul style="list-style-type: none"> <li>- Man-centred</li> <li>- Stress on individual emancipation</li> </ul>
Philosophy	<ul style="list-style-type: none"> <li>- Emphasis on divine comfort</li> <li>- More work is bad because other creatures get hurt</li> <li>- Work what is required for life</li> <li>- Life is for enjoyment</li> </ul>	<ul style="list-style-type: none"> <li>- Importance to hard work</li> <li>- No hard work, no achievement</li> <li>- Life is precious</li> </ul>

Source: "Abuvah Dishum", cited in Hari Ghati, Ranchi, No. 5, 2003.

