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**Resource Entitlements of Indigenous
Minorities, Their Poverty and Conservation of
Nature: Status of Australian Aborigines,
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[†] School of Economics, The University of Queensland, Brisbane QLD 4072, Australia.
E-mail: c.tisdell@economics.uq.edu.au

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For more information: write to Professor Clem Tisdell, School of Economics, University of Queensland, Brisbane 4072, Australia. Email: c.tisdell@economics.uq.edu.au

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Abstract

Considers the relevance of A.K. Sen's theory of entitlements to the situation facing indigenous tribal people, its relationship to institutionalism, and to theories of property rights. Changing world views about the resource entitlements that should be given to local communities are outlined concentrating on the views expressed by the World Conservation Union (IUCN). These changing views have relevance for the resource entitlements of indigenous tribal communities and are reflected in differences in the policy approaches inherent in the Convention on International Trade in Endangered Species (CITES) and the more recent Convention on Biological Diversity. The latter embodies the view that provision of greater resource entitlements to local communities can provide economic incentives for nature conservation. There is a case for Indigenous Australians to be given greater rights to market the natural produce from their lands. Despite progress with land rights, they are not entitled to market much of the natural produce from their land. The socioeconomic status of Australian Aborigines is outlined. Their standard of living and their life expectancy are low by world standards and in comparison to other Australians. This is partly a result of historical events that have restricted their rights. These events are outlined briefly. Views differ about the appropriate development paths for Indigenous Australians and these are assessed. Concern on environmental and economic grounds is expressed about the view that the economic development of Australian Aboriginal communities would be accelerated by replacing their communal land titles by private land titles and encouraging Western-style agriculture and commercial development of their lands. Some comparisons are also made with the situation of India's Tribals.

Resource Entitlements of Indigenous Minorities, Their Poverty and Conservation of Nature: Status of Australian Aborigines, Comparisons with India's Tribals, Theory and Changing Policies Globally

1. Introduction

Tribal minorities comprised of indigenous communities are, as a whole, in a deprived socioeconomic situation in most countries where they continue to exist. They have been described as existing in a Fourth World (Altman, 2004). This is true in Australia, India, and elsewhere. At the same time, they are frequently seen as being amongst the most important stewards and conservers of nature, partly because of their deep knowledge of nature, affinity with it, their social customs regulating its use, and the dependence of their well-being and survival on nature. Frequently, they are also located in areas where the natural environments remain relatively intact. Traditionally, such tribal groups are heavily dependent on gathering and hunting for their livelihood and have little, if any, economic dependence on agriculture, pastoral activities, and manufacturing. In Australia, the degree of traditional dependence of Aboriginal people on the latter activities was less (and, on the whole, in rural areas still is less) than that of Indian tribals. Nevertheless, some Indian tribals in remote areas (for example, in parts of Northeast India) basically remain hunters and gatherers.

The degree of dependence of indigenous tribal people for their livelihood on hunting and gathering contrasts with that of the dominant social mainstream majority in most countries where tribals continue to exist as identifiable groups. The economic activities of the dominant majority are focused on agriculture, manufacturing and, increasingly in modern times, on tertiary industries. These activities often conflict with the resource interests of tribal minorities. The dominant majority (generally the descendents of invaders and those recruited to their ranks) are often condescending to tribals. This may be because the economic framework and type of activities of tribals are low on the economic evolutionary ladder and the historical reality may linger in the social conscience that they are basically a defeated or overwhelmed set of people. Furthermore, their cultural differences are likely to set them apart from the majority. Consequently, their entitlements are often limited and they frequently suffer economic and social discrimination and deprivation.

This chapter considers the relevance of A.K. Sen's theory of entitlements to the situation facing tribal people and its relationship to their incidence of poverty and dependence. The

relationship of Sen's theory to the theory of property rights is also discussed. In turn, its connection with the incentive that tribal people may have to conserve nature is explored. In this respect, account is taken of the changing views of the IUCN about the type of policies that should be pursued globally to encourage local communities to engage in conservation of wildlife. A discussion then follows of the socioeconomic status of Australian Aborigines, the implications of their entitlements for their situation, and how the nature of their resource entitlements affects their attitudes to the conservation of nature. This chapter concludes with an overall assessment of problems facing tribal minorities in an increasingly market-oriented and globalising world.

2. The Relevance of the Entitlements' Theory of A.K. Sen to the Socioeconomic Situation of Tribal People

Sen (1981) emphasised the significance of the entitlements to resources of individuals, families and communities for their well-being. Lack of such entitlements is a source of economic and social deprivation. Such deprivation can result in economic and social dependence of victims on others (this is a source of human indignity), throw them into poverty, and engender feelings of hopelessness in them. In some cases, it even threatens the survival of individuals as graphically illustrated by Sen (1981) in the case of the Great Bengal Famine where many perished, not because there was insufficient food, but because they lacked sufficient entitlement to resources to be able to purchase this food.

Whether or not Sen's theory of entitlements (Sen, 1981) is, in fact, really a theory has been debated. It has, for example, been claimed that it is more a framework than a theory for considering the economic status of individuals, families and communities (Gasper, 1993). To some extent that is true because of its degree of generality (Tisdell et al., 2003). Nevertheless, even if this is so, Sen's theory is significant because it stresses the importance of social and legal rules for economic and social welfare. The approach is institutionalist in nature, in contrast to neoclassical economic theory. Furthermore, Sen's theory may have more in common with Old Institutionalism (e.g. Veblen, 1912) than with New Institutionalism (e.g. Williamson, 1975; North, 1990).

Currently, the interest of economists in institutionalism is undergoing a resurgence. This is possibly a reaction to the narrow focus of traditional neoclassical economics which tends to minimise the importance of institutional contexts and the historical backgrounds of societies.

A.K. Sen's work can be regarded as a forerunner of this new interest in institutionalism. Undoubtedly, if we are to appreciate the economic and social status of social groups, for example, tribal groups, and to understand their behaviour, considerable attention must be given to their entitlements which in turn are imbedded in an institutional setting reflecting historical events. Note that resource entitlements may be legal ones or those enforced by custom and social rules, that is, of cultural origin.

Theories about property rights are an integral part of modern institutional economics (e.g. North, 1990; Ostrom, 1990). Clearly the distribution of rights to resources and the nature of these rights e.g. private rights, communal rights, and open-access regimes, affect the distribution of incomes and the care taken of such resources by those who use them. One of the reasons why indigenous tribal minorities tend to be poor is that they have been deprived of their original resource entitlements by invaders and their supporters (cf. Altman, 2004). Where indigenous tribals retain the use of natural resources, their rights are often insecure or restricted; they have only partial property rights.

For example, forests traditionally used by tribal people in India have become state property and the use of tribal people of such resources is restricted; for example, their right to harvest timber for commercial purposes. The invaders of India, both earlier and later ones, such as the British, paid scant regard to the economic interests of forest dwellers. The European settlement of Australia followed a similar pattern. The most profitable land areas for agriculture, pastoralism and commerce were appropriated by the European settlers. Resource use by Australian Aborigines was confined to remote areas of no economic value to European settlers. They were certainly deprived of some of their most productive natural resources. As will be discussed later, they were also deprived of opportunities to trade in some of these resources. In part, the depressed economic status of most indigenous tribal people has its roots in such deprivation.

However, Sen's theory of entitlements (Sen, 1981) is a wider concept than the theory of property rights. Economic theories based on property rights are in fact a subset of those based on entitlements. Entitlements include consideration of equality of rights, such as equal access to education, justice and the absence of discrimination in the job market and in social relations.

Often indigenous tribals have suffered (or suffer) poorer access to educational facilities, experience legal prejudice, job and social discrimination, compared to the mainstream members of society. In India, since its independence, there have been attempts to counteract such discrimination by means of positive discrimination in the job market in favour of tribals and those from the scheduled caste. For example, some positions within the public service are reserved exclusively for tribals. In Australia, in recent years, there has been some positive discrimination in favour of Aboriginal Australians in access to education scholarships. Nevertheless, the effectiveness of such positive discrimination remains uncertain. It is seen by some as visible evidence of a social stigma. At the same time, such positive discrimination fuels the antipathy by many deprived mainstream individuals towards minorities receiving favourable treatment by the State. This can result in intensified social discrimination against minorities.

3. The World Conservation Union (IUCN) and the Resource Entitlements of Local Communities

The global conservation community, as represented by the IUCN, has in recent times come to stress the importance of providing local communities with adequate entitlements to their natural resources as a means to motivate such communities to conserve nature and as a result maintain biodiversity. The IUCN appears to have become convinced that private and local communal property rights combined with economic incentives (such as might be provided by greater use of market mechanisms) can make a valuable contribution to the conservation of nature. These views have been reflected in the Convention on Biological Diversity which came into effect in 1993.

The approach adopted in the Convention on Biological Diversity is somewhat at odds with that of an earlier international convention, the Convention on International Trade in Endangered Species (CITES), which came into force in 1975 but had its beginnings in an IUCN resolution of 1963. While the former international convention seeks to expand the use of markets and property rights regimes as a means to conserve nature, the latter is wary of the possible effects of markets on the conservation of wildlife. CITES seeks to ban trade in endangered species as a means of conserving these. The contrasting approach underlying the Convention on Biological Diversity is to encourage such trade but combine it with secure private or communal rights in wildlife. The change in policy direction may reflect the resurgence of market-oriented economic liberalism in recent decades. The international swing

away from government intervention in resource use and towards economic liberalism has contributed to the rapid increase in globalisation in recent decades (Tisdell and Sen, 2004).

The new policy orientation of the IUCN is highlighted in *Caring for the Earth: A Strategy for Sustainable Living* (IUCN-UNEP-WWF, 1991). This document stresses the importance of providing local communities with economic entitlements to wildlife in order to ensure its conservation. In general, economic incentives to individuals, local communities and states involved in nature conservation are seen as central ingredients of conservation policy.

Caring for the Earth states: “Economic return to local communities is important. Those that successively conserve wildlife should be enabled to export the sustainable surplus and to receive the revenues earned” (IUCN-UNEP-WWF, 1991, p.4). Elsewhere it states: “Economic policy is also an essential instrument for achieving sustainability... Economic instruments are also valuable tools for the establishment of sustainable practices because they provide a strong incentive force, while leaving individuals and communities freedom of choice about the precise measures they adopt” (IUCN-UNEP-WWF, 1991, p.69). This document emphasises the importance of a property rights approach pointing out that “Incentives to use natural resources sustainably depends on the property rights of users ... Exclusivity, duration and other characteristics of property rights profoundly influence the incentives of users to conserve resources” (IUCN-UNEP-WWF, 1991, p.42).

The view expressed in *Caring for the Earth* is reflected in the Convention on Biological Diversity. Swanson (1997, p.81) points out that according to its Article 1, the main objective of this convention is “the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources”. This convention also incorporates the view that it is important to give states global property rights in their endemic genetic resources with these rights devolving as relevant, to local communities, to particular groups or to individuals.

To some extent, the policy basis of the Convention on Biological Diversity conflicts with the policies of those states that have stripped tribal people of their property rights in natural resources, or which have severely curtailed these rights. European practice has been to vest natural resources in the state; the Crown in the British case. This policy was pursued in their colonies. Many of their former colonies, such as India and Australia, retain this practice.

Gadgil and Iyer (1989) attribute declining conservation of resources in India largely to such practices. However, the situation is in reality more complex. Indian kings also reserved some natural resources for their exclusive use. In the past, they kept some forests for their own use and seemed for a time to have claimed all elephants as their own property (see Kautilya, 1961).

The rights of Indigenous Australians to natural resources have undergone considerable change in recent decades. They have gone from a situation where they virtually had no such rights to a situation where they have rights to much land which they continue to occupy in rural areas. Their land rights were clarified by an Australian High Court decision in the case of *Mabo v Queensland (No.2)* in 1993. But, as discussed below, their property rights are still restricted. For example, although Australian Aborigines may use native fauna and flora for their own purposes, they are not all allowed to trade in it without specific government permission. Therefore, their opportunities to use their natural resources, their entitlements, are curtailed. This may reduce their economic incentive to conserve such resources on their land, as suggested by IUCN-UNEP-WWF (1991).

4. The Socioeconomic Status of Australian Aborigines and their Role in Nature Conservation

It is estimated (2001 Census) that there are now 460,000 Indigenous Australians. They consist of mostly Australian Aborigines and the remainder are Torres Strait Islanders. The latter are from islands between Cape York (Queensland) and Papua New Guinea and are of Melanesian descent. Consequently, Indigenous Australians account for around 2.3 percent of Australia's resident population. In comparison, the number of tribals in India is much larger and they account for a much higher proportion of India's population. Approximately 30 percent of Indigenous Australians, around 150,000, live in remote or rural areas, and the remainder live in urban and metropolitan situations (Altman, 2004, p.515). They are less urbanised than non-Indigenous Australians but nonetheless their urbanisation rate is high. Those in rural Australia are best placed to maintain their traditional ways of life and nowadays are the owners of large tracts of land in remote areas of Australia.

The standard of living of Australian Aborigines, especially those in remote and rural areas, is poor by world standards, and compared to other Australians. This is partly reflected in

differences in their expected length of life. In 2001, the Australian Census found that the median age of death for an Australian Aboriginal male was 51.6 years of age compared to 75.5 years for Australian males as a whole. For female Australian Aborigines it was 57.6 years of age compared to 81.8 years of age for females in Australia's general population (Australian Bureau of Statistics, 2001).

Indigenous Australians are poorer than most Australians. In 2001, the Australian Census revealed that, on average, their adjusted household income was about 60 percent of that for Australians as a whole and that they were three times as likely to be unemployed as non-Indigenous persons (Australian Bureau of Statistics, 2001). Poverty amongst Indigenous persons tends to be highest in remote areas. Unemployment rates would also be highest in remote areas in the absence of an Australian Government funded scheme, Community Development Employment Projects (CDEP), which provides employment opportunities for Indigenous Australians (that would not otherwise be available) in remote areas. About one in six Indigenous persons, who said in the 2001 Census they were employed, stated that they were participating in CDEP (Australian Bureau of Statistics, 2001). In the absence of CDEP, unemployment rates amongst Indigenous Australians would be much higher than now.

Indigenous Australians are more likely to be employed in low skilled or semi-skilled jobs than non-indigenous Australians. Furthermore, in 2001, Indigenous Australians completed less schooling than non-Indigenous Australians and were less likely to attend university. In addition, income disparity between Indigenous Australians and non-Indigenous ones rose between 1996 and 2001, although real incomes of both groups increased (Australian Bureau of Statistics, 2001).

In terms of longevity, healthiness, income disparities, education attainment and employment opportunities, there are parallels between the socioeconomic status of Tribals in India and the situation of Indigenous Australians.

The current socioeconomic situation facing Australian Aborigines and their entitlements needs to be seen in its historical context of the European settlement of Australia (Broome, 2002; Gibbs, 1996). The first settlement of Australia by Europeans (the British) began on 26 January, 1788, in what is now Sydney, New South Wales. From the point of view of

Australia's Aborigines, this was the start of an invasion. From then on, Aborigines were to endure a long process of loss of their lands, resources, entitlements and freedoms.

To some extent, the Europeans felt justified in taking land from Australian Aborigines because in their eyes, Aborigines did not use it; it was unused land. Broome (2002, p.30) states that at the time "The prevailing international (European) law concerning the ownership of newly 'discovered' lands held that the inhabitants only had sovereignty over that land if, by their labour and practice of agriculture, they used it and changed it by constructing buildings and towns". This, the Australian Aborigines did not do. Consequently, this was one pretext for European settlers to take their resources.

The social and economic situation of Australian Aborigines deteriorated for almost 200 years following the beginning of the European settlement of Australia. In 1901, the Commonwealth of Australia was established by the federation of the Australian states. However, federation did not lead to a better deal for Australian Aborigines until several decades later.

Gibbs (1996, p.2104) observes: "By 1901 Aborigines had lost control over their lands in all except the remote parts of the continent. They were not given the chance to determine their own future. Their culture was not respected. They remained under the 'protection' of state governments". However, as Gibbs (1996, p.105) observes, "the basis of this protection policy was restriction of the Aboriginal people and their rights".

In fact, the disgraceful situation emerged that in the Australian Constitution of 1900, Australian Aborigines were not regarded as Australian citizens. They had no right to vote and were not to be counted in the Australian Census. It was as if they were not human beings. It was not until 1967 that a Referendum changed the Australian Constitution to remove this injustice. The Referendum also gave the Australian Federal Government power in relation to Aboriginal affairs although individual Australian states still continue to exercise many powers in this regard.

In 1992, the rights of Indigenous Australians were given a major boost by a decision of the Australian High Court. In *Mabo v Queensland (No.2)*, the High Court found that Indigenous communities had rights to unalienated land (such as Crown land) provided that they were able to show continuing association with it. The right 'bestowed' is a communal or tribal right, not an individual right to land.

Indigenous Australians in remote areas or areas settled late or very sparsely by Europeans (for example, parts of the Northern Territory) found it easiest to establish their land rights, and were able to obtain rights to large tracts of land. In those areas settled early by Europeans, such as New South Wales, scope for Aboriginal claiming land was (is) much more limited because much of it has been alienated, often forcibly. Nevertheless, Indigenous land rights have now been established in 18-20 percent of Australia or over 1 million square kilometres of it (Altman, 2004). Most of this area is in northern or central Australia and considered unsuitable for European-type agriculture and of limited use for pastoralism. Nevertheless, the areas concerned contain unique species of native flora and fauna. Australians on the whole value the continuing existence of these species.

Altman (2004) has argued that Australian Aborigines in remote areas provide, as a result of their presence there, various environmental services valued by all Australians. Conservation of valued biodiversity is one such service. He argues that this is a favourable externality or spillover and that, therefore, it is reasonable that Aborigines providing these services in remote areas be subsidised by the Australian government. This is now done to a significant extent through the Community Development Projects (CDEP) scheme which pays salaries to wildlife officers in Aboriginal communities and assists, amongst other things, with environmental management programmes that mainly employ Aborigines.

However, the rights of Indigenous Australians to trade in native fauna and flora remain relatively restricted by Australian governments. The Commonwealth Government restricts international trade in native species and their products under CITES (and otherwise) using its constitutional powers in relation to external affairs and it may also restrict commercial use of species within a state if this use would contravene an international agreement to which the Australian Government is a party. In this respect, for example, it has opposed limited trophy hunting of saltwater crocodiles in the Northern Territory of Australia, although the Northern Territory Government favours it. Such hunting would, for example, provide a source of extra cash income for some Aboriginal communities.

The situation has arisen where Indigenous Australians now possess large tracts of land as a result of the decision in the Mabo case but they have limited rights to utilize the natural produce of this land. They can use the natural produce for themselves (subsistence) but

without specific government permission they are not allowed to trade or market most natural produce. Australian governments have varied in the willingness to give such permission. In general, the Northern Territory favours such permission but not Queensland.

Several consequences may follow for the lack of access to markets by Indigenous landholders. Indigenous landholders may have little economic incentive to conserve their natural landscape in such cases. If an alternative more economic use of the land requiring its 'development' is available, they may transform it and this is likely to result in biodiversity loss (cf. Swanson, 1997). If not, they are denied opportunities for earning cash from their resources. Because Indigenous communities are embedded now in the wider Australian economy (which is basically a cash-oriented and market economy), Indigenous people need cash to participate, at least to a minimal degree, for example to buy materials for their children's education, and purchase required non-subsistence commodities. The absence of market opportunities can add to poverty of Indigenous people in remote areas and their dependence on Government welfare support or charity.

Contradictory Australian policies appear to be proposed for the use of resources by Australian Aborigines. On the one hand, there are those who favour economic development of the land along European lines involving land transformation (for example, Duncan, 2003). On the other hand, there are those (such as Altman, 2004) who see this as inappropriate, especially in remote areas. It may be inappropriate because European-type land use may be uneconomic in many remote areas of Australia, damaging environmentally, and corrosive of remaining Aboriginal culture.

Duncan (2003) expresses concern about the 1992 decision in the Mabo case because it did not give land titles to individual Indigenous Australians but to their communities. It created communal property – a form of common property. Duncan then indicates that this is unsatisfactory because “common property tenure and management has not proved to be the best form of management for growth in productivity” (Duncan, 2003, p.309). However, most land in which Indigenous Australians now have rights is land that Europeans did not find profitable to convert to commercial uses. Even if given individual land titles, one wonders, in many cases, why Aborigines would find land conversion more profitable; even though, in some cases, changing economic circumstances could alter the situation. On the whole, Indigenous Australians have been left with land of the least commercial or economic value,

and some of their land may have no such value. This is the reality. In cases where this land can be profitably developed for commercial use, the cost may be considerable loss of biodiversity and loss of other types of environmental amenity. This can be loss both for Indigenous Australians as well as other Australians.

5. Concluding Comments

The socioeconomic situations of indigenous minorities are complex. Globally, they often suffer discrimination and restricted entitlements to resources. While some positive discrimination in favour of such minorities often exists officially, this is a mark of their social disadvantage and it is frequently insufficient to offset their disadvantage entirely. The situations of such minorities, for example in Australia and in India, although different, have much in common.

For how long such minorities will be able to retain their separate cultural identity is unclear. Growing global and national systems of communication and entertainment, the expansion of state-controlled education systems, and the spread of the market-based economy are some of the powerful forces eroding the separate cultural identity of tribal minorities.

In most cases, the dominant majority tends to encourage tribal minorities to adopt its culture. Despite appearances to the contrary, this attitude appears to persist. For example, in 1838, the Governor of South Australia (Governor Gawler), addressing a gathering of Aborigines, said “Black men. We wish to make you happy. But you cannot be happy unless you imitate white men.” (quoted in Broome, 2002, p.31). He then went on to say how Aborigines should love God, build houses and be useful. To some extent, Duncan (2003), in recommending that Australian Aborigines should follow the same path of economic development as Europeans, suggests a similar course to Gawler. However, the European model of development may not be appropriate at every stage of development of a community and in all environmental circumstances.

There is the further problem that culture and economic institutions are intertwined. Forcing European and similar economic systems on indigenous people quickly can result in cultural shock and dislocation. Natural economic evolution may reduce the pangs of cultural change. There is also the prospect, mentioned earlier, that in some environments where indigenous people reside, European-style economic systems and associated activities are uneconomic.

Such systems may also add to the destruction of nature and biodiversity, as well as cause cultural traumas.

On the other hand, a blanket approach of not allowing indigenous persons to market the produce of their natural resources seems misguided. Such restrictions limit the entitlements of Australian Aborigines even when they have land rights. They can (but may not) reduce the incentives of Aborigines to conserve nature, may reduce their economic opportunities, and their scope to earn cash incomes. As a result, Indigenous Australians increase their dependence on the state and on charity, especially when they live in remote areas. There appears to be a case for allowing Indigenous Australians greater scope to trade in the natural produce from their lands.² In cases where trade is restricted or disallowed as a measure to promote nature conservation for the benefit of all Australians, government payments to Indigenous Australians may be in order as suggested by Altman (2004). Such payments to Indigenous persons would be reward for their creation of favourable externalities and foregoing economic opportunities to do so.^{3,4}

NOTES

1. Also their rights to land are not always legally recognised. The author once visited a Santal village in southwest West Bengal that was located in a forest. The villagers complained that they had no land titles to the land in their village and to the small garden plots surrounding it.
2. This does not imply that trade be allowed in all wildlife species and their products. There can be a case for banning trade in some endangered species and their products.
3. It needs to be remembered in proposing any development policies for Australian Aborigines that considerable variation exists in their state of development and ownership of land. The situation facing urbanised Aborigines (many of whom are landless) is quite different to that encountered in remote parts of Australia where Aborigines have large areas of land. Different types of development policies seem to be required for different Aboriginal groups. The focus here has been on groups with land resources, mainly in remote areas.
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