

Negotiating Caste, Tribe and Disadvantage: The Vimukat Jatis (ex-criminal tribes) and Reservations in Postcolonial Punjab

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The paper studies the vimukat jatis (the erstwhile 'criminal tribes') in Punjab as Scheduled Castes and their movement which had emerged in the state during the 1970s aimed at changing their classification within India's reservations regime to Scheduled Tribe. The movement eschewed the tropes now familiar in the politics of 'becoming tribal', such as indigeneity, territorialism and primitivism. However, it also articulated a novel form of what this paper terms 'politics of disadvantage' which marked out the vimukat jatis as a distinct category of disadvantaged citizen. Despite their claims to Scheduled Tribe status, for example, they not only refused to submit to the tropes of 'becoming tribal' but in fact stood in stark contrast to them. Through an examination of their political demands, this paper questions the seeming rigidity of the categories of caste and tribe in postcolonial India and argues that the vimukat jatis' manoeuvring of such categories represents a radical departure from contemporary tribal claims and status in India.

Keywords: criminal tribes; identity politics; reservations; scheduled tribe; caste; nomadism

'A Hindu writer some years ago defined Hinduism as "those people of India who belong to a hierarchy of caste"... The weak point of this definition is that it is dependent on the meaning of "caste". Where is the boundary line between caste and tribe?' (E.A. Gait, Census Commissioner for India, 12 July 1910)

In 1975, Buta Ram Azad, one of the prominent leaders of a vimukat jati¹ (the erstwhile 'criminal tribes') political movement in Punjab, sent an innovative writ petition to the Punjab and Haryana High Court.² Along with 17 others, he sought to challenge the very constitutionality of the designation of the vimukat jatis in Punjab as Scheduled Castes. This movement, although spearheaded by a relatively narrow political elite, had positioned itself as representing the interests of over ten

lakhs of vimukat jatis in the state. From the mid-1970s, they undertook a plethora of protests, petitions and demonstrations to change their classification within India's reservations regime to Scheduled Tribe. These demands were remarkable, however, as they eschewed the tropes now familiar in the politics of 'becoming tribal', such as indigeneity, territorialism and primitivism. Instead, they situated their demand within a redefinition of their nomadic past and present as particular forms of disadvantage that not only refused to submit to these tropes but in fact stood in stark contrast to them. This paper examines what it terms as their *politics of disadvantage* and how their demand positioned itself against the multitude of claims for tribal status in India. By doing so, it hopes to question the seeming rigidity of the categories of caste and tribe in the postcolonial period and argues that the vimukat jatis' manoeuvring of such represents a radical departure from contemporary tribal claims.

For many communities in India, gaining recognition from the state – as 'tribal', 'untouchable' or 'backward' – is part of an ongoing struggle to determine their place within the post-colony. Official recognition comes with attendant material and political benefits of reserved seats in legislatures and posts in public employment and education.³ More than this, it structures a certain citizen-state relationship in which the state is obligated to protect and promote certain rights of these recognized disadvantaged citizens. For certain groups, however, the 'horizons of potentiality' that were promised by reservation have failed to materialize.⁴ In March 1981, Dr Gopal Singh visited Punjab during his investigations as Chairman of the High Power Panel appointed to examine how far compensatory discrimination⁵ had reached those most in need. Dr Singh took particular interest in the situation of the vimukat jatis, whom he described as 'the weakest of the weaker sections'.⁶ All but two of the vimukat jatis in Punjab had been declared as Scheduled Castes and should, therefore, have been eligible for the attendant safeguards. The panel noted, however, that, 'The advanced [Scheduled] castes... have political patronage and therefore manage to get the lion's share of the various benefits and concessions... The Vimukat Jatis on the other hand... have tended to get lost in democratic process, though most deserving for special aid... The purpose of reservation has, therefore, been badly defeated.'⁷

Unable to avail of the promised potentialities of reservation, the leaders of the vimukat jati movement in Punjab endeavoured to gain recognition of a distinct and separate political identity. From the mid-1970s, these demands primarily called for inclusion as Scheduled Tribes.⁸ But their tribal claims should be understood as an act of political expediency, a method of manoeuvring the rigid framework of compensatory discrimination, in an effort to achieve a *separate political space* rather than a desire to occupy a *specifically tribal one*. The method is evident in conversations with contemporary activists and community leaders who articulate certain ambivalence about whether they are classified as Scheduled Caste or Scheduled Tribe in terms of reflecting a particular identity or cultural heritage.⁹ Instead, what they prioritize is gaining recognition as a distinct category

of disadvantaged citizen. Their politics of disadvantage, therefore, delineated their own definition of what it meant to be tribal in postcolonial India and, although rooted in an Adivasi-based context, Vibha Arora's words are pertinent: 'Being tribal does not necessarily indicate indigeneity, oppression, or subaltern status; it signifies political assertion and empowerment'.¹⁰

The politics of 'becoming tribal'

In contemporary India, the politics of 'becoming tribal'¹¹ have reached dizzying new heights. Estimates reckon upwards of 1,000 communities have pending claims to Scheduled Tribe status. Across the country – although concentrated in the North East – groups regularly transform their villages, festivals and appearances into 'elaborate ethnological spectacles' to legitimize their demands.¹² Although the list of Scheduled Tribes has repeatedly been challenged and re-worked to accommodate competing claims of inclusion and exclusion from its very promulgation, in more recent decades these claims have risen exponentially. The increase has partly resulted from the liberalisation of India's economy in the 1990s and the attendant rise in competitiveness for increasingly prized reservations in the employment and education sectors. It is also a consequence of the emergence of a globalised rhetoric on indigeneity.¹³ With increasing numbers of communities making claims, the question of what it meant to be tribal was seemingly more susceptible than ever before to contestation. Yet, it was during this period that the discourse became most static.

Even at the local level of administration, communities engaged in this globalised rhetoric on indigeneity and positioned their claims against others within the national arena. As a consequence, the term 'tribe' came to be increasingly concrete, fixed and definite in its meaning. Its use invoked the tropes now familiar in the public imagination and anthropological discourse – of isolation, animism, and primitivism. Yet, the term had regularly been negotiated and revised since the first ethnographic exercises of the early 1800s. Despite the rigidity and reductive capacities of colonial epistemological devices like the census and imperial surveys, successive administrators recognised and lamented their inability to accurately map the fluid realities of socio-cultural life within the confines of rigid binaries of difference. The changing trends of the global scientific community to understand and measure such realities in colonies around the world influenced the administration that variously embraced and rejected the use of tribe in learning adequately certain social formations.¹⁴ Although, classification, if not always intentionally, reinforced and re-ordered the boundaries of social identity.

Despite this contested and imprecise meaning before independence, 'tribe' was codified within the Constitution of 1950 through the framework of compensatory discrimination. This scheme of affirmative action contradicted the Constitution's promise of equality for all citizens, as the designation of certain communities as Scheduled Caste or Scheduled Tribe marked them as requiring a differentiated

form of citizenship to overcome their historic marginalisation and exclusion. Yet, it was a necessary guarantee of the same; without it, communities who faced unequal discrimination were themselves debarred from this equality. As Niraja Gopal Jayal has termed it, compensatory discrimination offered provision for an 'effective equality'.¹⁵

Unlike Scheduled Castes, who were defined specifically in relation to the practice of untouchability, Scheduled Tribes were an ill-defined category within the Constitution with no agreed upon criteria for the designation of communities as such. There had been heated debate within the Constituent Assembly on how and who to categorise as Scheduled Tribes. A.V. Thakkar attempted to qualify the terms 'tribe' and 'Scheduled Tribes' throughout with the addition of the phrase: 'professing the tribal religion'.¹⁶ Whereas, Jaipal Singh – the Bihar representative and most prominent tribal leader within the Assembly – preferred the use of 'Adivasi', meaning original inhabitant. Ultimately, as Jagannath Ambagudia has argued, the adoption of 'Scheduled Tribe' mostly owed to Bhim Rao Ambedkar who preferred its fixed legal meaning, in that it merely enumerated the classified communities, rather than more culturally and historically contingent terminology.¹⁷ The argument meant, however, that the term is first and foremost an administrative and legal category rather than a socio-cultural one.¹⁸

With no clear definition, therefore, the politics of 'becoming tribal' emerged from the 1950s as various communities tried to justify their inclusion within the schedule. In the process, however, they inadvertently formalised its criteria. Increasing numbers of communities attempted to get scheduled by prioritising certain aspects of their identity considered more credibly tribal, often relying on the, albeit conflicted, the discourse of colonial anthropology.¹⁹ This method was legitimised by the Commissioner for Scheduled Castes and Scheduled Tribes who, in 1951, proposed the common elements for defining a community as a Schedule Tribe: 'tribal origin, primitive way of life, remote habitation and general backwardness in all respects'.²⁰ As a consequence, the manoeuvrability of the previously amenable term became increasingly curtailed. In 1965, in response to growing dissatisfaction with the category, a more definitive framework was sought. The Lokur Committee was instigated and, despite recognising the impossibility of accurately designating communities, eventually issued criteria more conclusively wedded to these archaic understandings of tribes; these were: indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness.²¹

From the late 1960s, therefore, a specific framework emerged within which claimants to Scheduled Tribe status had to make their claims. Where communities successfully sought inclusion, they relied largely on cultural claims that prioritised this discourse on tribe. Kriti Kapila has demonstrated this with regard to the Gaddis of Kangra.²² She argues that in their efforts to be re-classified as Scheduled Tribe, they emphasised their pastoral livelihoods and cultural distance from caste society. Even though the Gaddis had been repeatedly identified in classificatory

exercises, such as the Lokur Committee, as not being of tribal status, it was their concerted effort of projecting a certain cultural identity that adhered to this dictum on tribal status which eventually saw the success of their claims.²³

The question arises, therefore, of how far groups have been able to delineate their own meaning of 'becoming tribal'. As Elizabeth Povinelli has argued, claims to indigeneity and tribal status worldwide are problematised by the 'impossible object of authentic self-identity', whereby the legitimacy of such claims rest on a community's ability to project an 'authentically' indigenous identity in contexts which render it impossible.²⁴ Hence, a degree of superficiality and performance becomes inherent to such claims. While communities can employ the ethnological paradigms of tribe and indigeneity to achieve their agendas, Townsend Middleton argues, they must adhere to certain logics which are bound up in their articulation.²⁵ There has seemingly been little room for manoeuvre within the frameworks of classification and the politics of recognition. Yet, the claims of the vimukat jatis to Scheduled Tribe status make a radical departure. Their demand went beyond what Vibha Arora has described as the appropriation of tropes of 'primitive' or 'indigenous' in order to 'galvanise public and international support'.²⁶ Rather than work within its narrow confines, the vimukat jatis refused to adhere to the established dictum on tribal identity. Instead, they articulated a politics of disadvantage which elucidated their own version of 'becoming tribal'.

The politics of disadvantage: The vimukat jatis of Punjab

Laura Dudley-Jenkins has argued that the categories of reservation in India, rather than subsuming complex identities within an official grid, become political catalysts themselves as groups challenge the boundaries and definitions of beneficiary groups.²⁷ Rather than frame their demands in accordance with the increasingly rigid framework of tribal identity, the political leadership of the vimukat jatis articulated a distinct identity, one which was intrinsically shaped by a shared history of mobility. Although vimukat jatis and nomadic groups were far from synonymous,²⁸ the leadership cultivated a collective identity rooted in particular forms of disadvantage enforced upon them by their nomadic past in an effort to legally encode themselves as a distinctly disadvantaged group. In many ways this demand was similar to Dalit activism which had redefined the predominantly social experience of untouchability – although determined along myriad religious, economic and social lines – as a specific form of vulnerability that had established the Dalit as a political subject.²⁹

The vimukat jatis' politics of disadvantage was consequently articulated along three key lines: First, they claimed to have been victim of an official misrecognition, arguing that mobility had historically enforced a Dalit-like disadvantage upon them. Second, they argued that nomadism had engendered a moral disadvantage which they rejected in the present day as reformed and moral

citizens. And last, they re-framed their liminal and precarious sense of belonging within particular spatial imaginaries – geographically and, consequently, politically – on account of their mobility as an exclusionary disadvantage. Significantly, these demands stood in stark contrast to the dominant paradigms of ‘becoming tribal’ – rather than distance themselves from Hinduism, they staunchly proclaimed inclusion within it; rather than base their claims in a fundamental association with land, they positioned themselves in a lack of it; and rather than promote the retention of traditional practices and means of livelihood, they rejected them.

‘We are Hindus’

In his work on the Gorkhas of Darjeeling’s struggle for tribal status, Townsend Middleton notes that their oft-repeated maxim was: *To be tribal, one mustn’t be Hindu.*³⁰ This dichotomy between tribes and Hindu castes had become an ‘ethnological fact’ not only in the public imagination, as Middleton argues, but played a decisive role in government decisions over who to recognise as Scheduled Tribes. When Buta Ram Azad introduced his writ petition to the Punjab and Haryana High Court in 1975, however, he emphasised that the vimukat jatis were descendants from Kshatriya Rajputs. He did not set them apart from Hindu or caste society; rather, he avowed their inclusion within it. Their claim to Scheduled Tribe status was predicated upon a distinction between themselves and Dalits. Their petition was not so much rooted in the demand that they *were* tribal than the fact they *were not* subject to untouchability. They portrayed themselves as having been historically subjected to a socio-economic disadvantage that was similar in material terms to that of Dalits but rooted in their nomadic past rather than a ritual discrimination. Their demand was, therefore, predicated upon a historical misrecognition -- an alienation of their true identity, the remedy for which was recognition as Scheduled Tribe.

The caste/tribe dichotomy had initially emerged in colonial anthropological and administrative discourse during the nineteenth century as tribal communities were believed to be bereft of the caste attributes of hierarchy, purity and pollution. Classification remained relatively fluid, however. *A Glossary of the Tribes and Castes of the Punjab and North West Frontier Province*, compiled from the Punjab Census of 1883, describes the ‘wandering and criminal tribes’ as ‘aboriginal in ultimate origin’ but occupationally and socially similar to Dalits.³¹ From the 1930s, as the future Constitution of India was being debated, these categories became more distinct, rigid and wedded to particular types of disadvantage. Significantly, the loosely-defined ‘depressed classes’ category of the 1910s which had included Dalits (untouchables), Adivasis (aboriginal and hill tribes), and vimukat jatis (wandering and criminal tribes) was narrowed by the 1930s to include only those who suffered from the practice of untouchability. ‘Tribes’ were now to be defined in relation to their ‘backwardness’, while ‘criminal and wandering tribes’ were erased as a distinct category.

This divergence between caste/tribe was reaffirmed after 1947 as tribal communities were again measured, regarding their distance from caste society.

The logic of recognition was premised on the belief that the more Hinduised they were, the less tribal. Given the increasingly rigid framework of criteria adopted after independence, and particularly after the Lokur Committee, distancing oneself from Hindu society became of vital importance for aspiring Scheduled Tribes, regardless of the everyday realities. Kriti Kapila has demonstrated how the Gaddis' claims changed post-Mandal as they positioned themselves against the Other Backwards Classes category, which was mainly prescribed on caste terms, despite, in the process, adopting more caste-like behaviour centred on notions of ritual purity.³²

By positioning themselves within the Hindu community, therefore, the vimukat jatis made a radical stance which was not entirely novel. Although the movement in the 1970s represented the first articulation of a unified vimukat jati identity, individual communities had long claimed inclusion within the Hindu fold. In response to the suggestion that they would be enumerated separately in the census of 1931, the Sansis of Gurdaspur district vehemently protested, claiming 'We are Hindus'.³³ Earlier ethnographic works from the late nineteenth century also cited their claims to Rajput descent. They noted how a common conjecture amongst the vimukat jatis was that their communities had originated in Rajasthan and served various Rajput rulers but were forced into nomadism and poverty after the invasion of the Mughals. V.P.T. Vivian noted in 1912, for instance, that the Sansis had been bards or genealogists, but they were 'driven to a life of vagrancy and degradation to escape Musalman persecution.'³⁴ Their expulsion and consequent turn to nomadism were, therefore, foregrounded as the root of their Dalit-like disadvantage.

What was remarkable about their claim as it emerged in the 1970s, however, was their utilisation of this narrative for the legal redress of this historic misrecognition. The clearest example of this was Buta Ram Azad's writ petition to the High Court in 1975. The grievance was that the vimukat jatis did not have the characteristics of the Scheduled Castes and should not, therefore, have been included in the Constitution (Scheduled Caste) Order (1950). Instead, the petition claimed, they were 'part and parcel of the Scheduled Tribes'.³⁵ They emphasised the inapplicability of the criteria outlined by the Lokur Committee for Scheduled Castes, i.e. extreme social, education and economic backwardness *arising out of traditional practice of untouchability*. They similarly invoked their past Rajput heritage and more recent degradation on account of their enforced mobility, thereby distancing themselves from the ritual practice of untouchability. This position was not only an effort to demonstrate that their classification as Scheduled Castes was a case of mistaken identity but they argued it was unconstitutional. And while this aspect of their claim was eventually thrown out by the High Court in 1982, their legal claim for reclassification had positioned itself within the either/or logic which the legal dichotomy between caste and tribe had established. The vimukat jatis were already long identified as communities in need of compensatory discrimination to remediate their deeply-entrenched

backwardness if they were not found to be Scheduled Caste, they must, by virtue, by Scheduled Tribe, despite the lack of an 'authentic' tribal identity.

Their utilisation of the courts and exploitation of the stringent definitions in the law exemplified what K.G. Kannabiran has termed an 'insurgent jurisprudence', whereby attempts by the courts or bureaucracy to uphold constitutional rights in ways that might appear rebellious in character. There are episodes when they challenge the authority of the state or existing conventions – in fact, re-imagines democratic citizenship³⁶ evident in 1982, when the High Court upheld the vimukat jatis' logic of redefining tribal belonging. The court stated that 'the petitioners Vimukat Jatis are not the untouchables... Since they are not socially, educationally and economically backwards, arising out of traditional practice of untouchability... *they could only be included in the list of Scheduled Tribes.*' Since the ruling, the central and Punjab governments have repeatedly delayed or denied their re-classification as Scheduled Tribes, yet the court's decision afforded a legitimacy to their claim. In the eyes of the law, if not the government, they had successfully redefined the meaning of being Scheduled Tribe – not necessarily one that adhered to the discourse of indigeneity or tribal belonging, evident elsewhere in India. The redefinition included recognising a citizen by the state owing to their distinct disadvantage coming under its purview for compensatory discrimination and protection.

'In the present world we are no more Nomadics'

One of the most enduring markers of tribal difference has been the distance of tribes from so-called modernity and civilisation.³⁷ From the first tribal ethnologies of the 1870s to the designation of Excluded/Partially Excluded Areas, and finally within the Government of India Act (1935), places and peoples identified as tribal were distinguished from mainstream caste society. They were placed under a differential rule of law -- one which sought to civilise yet protect them simultaneously.³⁸ After independence, this ideology of primitivism was reinscribed within the system of compensatory discrimination - tribes were again to be protected yet improved. In the politics of 'becoming tribal', therefore, groups promoted and embraced 'traditional' aspects of their livelihood, culture, language or religion that appealed to this paternalistic language of primitivism to gain recognition. Even where communities had shifted away from these practices in their everyday lives, these were retained and asserted symbolically.³⁹ In their demand for Scheduled Tribe status, the vimukat jatis also invoked 'traditional' means of livelihood, primarily their practice of nomadism and its associated forms of 'illegitimate' work, such as acrobatics and wildlife performance. But rather than promote their continued retention, the demand was rooted in their final rejection.

Despite a deep-rooted and rich tradition in South Asia, nomadism was increasingly maligned from the early nineteenth century as changed attitudes towards land ownership and the imposition of damaging colonial laws translated mobility into

notions of 'encroachment' and 'trespass'.⁴⁰ Nomadism was conflated with both criminality and backwardness and became a key factor in the notification of communities under the Criminal Tribes Act (CTA), the reclamation policies of which centred on efforts to inculcate 'honest', 'sedentary' and 'civilized' lifestyles.⁴¹ Despite the repeal of the CTA in 1952, this association of nomadism with criminality was codified within the developmental and legal framework of the newly-independent state. Through the enactment of legislation to replace the CTA (Habitual Offenders Acts) and the Constitution's conflation of 'vagrancy' with 'nomadic and migratory tribes', the legal definition of the erstwhile 'criminal tribes' was more conclusively reimagined in terms of their criminalising mobility. Moreover, the developmental and welfare agenda of the independent government, as expressed most strongly in their Five Year Plans, specifically attempted to promote sedentarisation by prioritising grants of housing and land for the *vimukat jatis*. In practice, however, the measures rarely filtered down among the communities themselves.

The *vimukat jati* movement utilised the criminalising discourse, so as to legitimatise their claim to Schedule Tribe status and gain recognition as a class of distinctly disadvantaged citizens. Nomadism was recast not only as a socio-economic disadvantage but a moral one. Rather than emphasise nomadism's rich history, they instead acknowledged it as the root of their past and present 'criminality'. In a petition to Indira Gandhi in 1982, Buta Ram Azad promised that he would 'remove beggary, evils, bad habits crimes and every sort of Corruption from the Vimukati Jaties... [by] abolish[ing] their wandring[sic] form[sic] place to place'.⁴² Mobility was conflated with illegitimacy, criminality and especially immorality. In particular, he appealed to the discourse regarding vagrancy and beggary which re-emerged in the years after 1947 and resulted in a flurry of new legislation that criminalised undesirable forms of movement.⁴³ While framing nomadism as the cause of their prior immorality, he simultaneously rebuked and rejected it as a practice in their contemporary lives. By alienating themselves from their long and complex history of migration, settlement, co-existence, and conflict, he appealed to the modernising and moralising rhetoric of the post-colonial state. Rejecting mobility and its enforced moral disadvantage acted as an enabling and moralising force to their demand.

The invocation of reformed character as a tool to negotiate with the state was similarly not novel to the demand for Scheduled Tribe status which emerged in the 1970s. Since the late colonial period, individual communities notified under the CTA had used it to implore various Commissioners and District Superintendents of Police to relieve them from its punitive provisions. In a petition submitted to the Deputy Commissioner of Karnal in 1947, a group of *Sansis* tried to legitimatise their request by claiming, 'In the present world we are no more Nomadics[sic]'.⁴⁴ They portrayed nomadism in terms of negativity and backwardness compared to the 'educated and civilised' life they had come to adopt. Although not eventually successful, their claim highlights that communities actively employed the normative discourse established by the colonial state which

prioritised – and normalised – a sedentary lifestyle. Before the 1970s, however, these petitions were community-specific, locally-rooted, and *ad hoc*.

The scheduled Tribe status was distinct partly for its projection of a unified vimukat jati identity articulated at the state and national level, and for a more certain appeal to the idea of moral citizenship that was cultivated by the post-colonial state. Unlike the forms of disadvantage enforced upon Dalits, the moral disadvantage of the vimukat jatis was how they positioned as culpable for themselves. The developmental schemes inaugurated for Scheduled Castes envisaged the continuation of their traditional occupations, such as leather tanning and crafting footwear, even though these supposedly ‘unclean’ professions had been inexplicably linked to their stigma of untouchability.⁴⁵ Rather than situate their disadvantage within these occupations or Dalits themselves, the state saw it as a problem of caste Hindu society that could be resolved through legislation and political empowerment. The schemes for the vimukat jatis encouraged them to give up the ‘distasteful or unwholesome’ occupations as ‘flute dancers, professional beggars, [and] nomads’.⁴⁶ The disadvantage, however, existed within the communities, and their choice⁴⁷ of occupation was a result of their lack of morality. It could only be overcome, therefore, through a wholesale rejection of their ‘traditional’ means of livelihood.

By framing their identity in association with these supposedly illegitimate and immoral forms of livelihood, the vimukat jatis recast their political demands in terms of a moral progression. They situated themselves within a linear narrative of reformation and improvement to give their claim to state protection a moral credence. While appealing to a sense of moral citizenship, it did, however, complicate the narrative of primitivism which had prescribed the designation of tribes. Situating themselves in a different form of contradiction, the vimukat jatis’ politics of disadvantage simultaneously sought inclusion within a category delineated in terms of its distance from modernity, civilisation and progress, while staunchly declaring themselves as reformed, moral and civilised citizens.

‘We are...found scattered throughout the State’

The final tribal trope which the vimukat jatis subverted in their claims to Scheduled Tribe status was that of territoriality and their relationship to particular geographic locations. As numerous scholars have demonstrated, the landscape has repeatedly been employed as an integral ‘symbolic terrain’ in the self-articulation of tribal identities.⁴⁸ Vinita Damodaran has shown how communities in the Chotanagpur plateau used the cultural power of the landscape to define a political identity which contributed to the emergence of an empowered Adivasi consciousness in the fight over resources and autonomy.⁴⁹ The vimukat jatis, however, were spatially diffused and dispersed across Punjab, partly the result of uneven patterns of a settlement over the past 150 years. Sometimes, they were forced when interned within colonial settlements or taken at flight during the upheaval of Partition, as well as the ongoing mobility and displacement of distinct

communities up to the present day. They situated their claims to an exclusionary disadvantage within the lack of territorialism and rootedness – in effect, a physical liminality – one which impeded their equal access to rights.

While presiding over the first All-Punjab Bazigar Conference in 1981, Channan Singh promised to bring ‘an end to the nomadic way of life of their caste’.⁵⁰ He drew attention to the precarious existence of many communities who still followed a semi-nomadic lifestyle or, when they had no secure land rights in the settled *bastis* on the outskirts of towns and cities, faced with a constant fear of eviction. This uncertain existence was blamed for the lack of adequate infrastructure – drinking water and roads – but also their denied access to education and jobs. The situation contrasted with the Constitution’s promise of ‘equality of opportunity’, which stated: ‘No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, *residence* or any of them, be ineligible for, or discriminated against in respect of, any employment under the State.’⁵¹ By reframing their mobility in terms of an enforced physical liminality and consequent exclusionary disadvantage, they claimed denial of the fundamental rights of universal citizenship guaranteed by the Constitution.

Moreover, and more pertinent to their demand for inclusion as Scheduled Tribes, they argued that not being geographically rooted had impacted upon their ability to attract political patronage, and thus access to the framework of compensatory discrimination. In 1981, Nirmal Singh Nirmal, the President of the Tapriwas and Vimukat Jati Federation, made a representation to Dr Gopal Singh in his capacity as Chairman of the High Power Panel. Despite a strong presence in certain districts such as Ferozepur or Faridkot and an overall sizeable population, he argued, the fact that they were ‘found scattered throughout the State’ in a deterritorialized nature meant that they could not secure political representation.⁵² He stated that in Punjab ‘there is no MLA... no MP, no PCS cadre officer, no IPS or IAS officer’ who belonged to the vimukat jatis. This absence, he claimed, had left them excluded from the system of compensatory discrimination, as access to the benefits of reservations relied on local political patronage. Not being able to act as a viable vote bank on account of their mobility and unstable belonging had therefore also excluded them from the framework of differentiated citizenship.

We can understand the vimukat jatis’ politics of disadvantage, therefore, in terms of a spatial identity politics, in which they not only tried to carve out a distinct and bounded political space *in place* of a defined geographic one but *because* of the lack of one. Their redefinition of nomadism – and in particular their lack of geographic rootedness – as a specific form of exclusion from the rights ostensibly conferred on them by the Constitution placed a special obligation on the state to recognise and protect them. As Niraja Gopal Jayal has argued, although the Constitution privileged the concept of universal citizenship, it sought to accommodate claims of certain groups on the grounds of ‘protection or compensation for disadvantage’.⁵³ The system of compensatory discrimination was not intended to deny equality but instead ‘to promote effective equality’ as

'given their histories of marginalisation' these groups could not hope to compete on equal terms. By demonstrating the ways that nomadism had impeded their equal access to the rights of citizenship enshrined in the Constitution, the vimukat jatis legitimised their role as disadvantaged citizens in need of differentiated citizenship in the form of compensatory discrimination. By highlighting how their mobility had additionally excluded their equal access to reservations, in effect a double-bind of inequality, they also attempted to justify the creation of a separate political identity in the form of inclusion as Scheduled Tribes.

Conclusion

Upendra Baxi has argued that the Constitution 'provides narratives of both rule and resistance'. As a legal document, it delineates the 'structures, forms, and apparatuses of governance', but it also acts as an important site of contestation for the rights and justice enshrined within it.⁵⁴ Since its promulgation, various groups have used the Constitution as a 'normative ideal' to hold the state to account on its obligation to protect the rights and equality of its historically disadvantaged citizens.⁵⁵ Although the lists of Scheduled Castes and Scheduled Tribes were mostly inherited unchanged in 1950 from the 1931 Census, they have not been static and unchanging. There has been extensive negotiation and contestation of these categories across the breadth of the country. Where communities felt that the rights promised by compensatory discrimination were undermined, challenged, or not yet attained, they utilised the discourse established by the Constitution to reaffirm the obligation on the government.

Similar to debates on the suitability of Christians or Muslims within the Scheduled Caste category, the vimukat jatis' politics of disadvantage sought not only to negotiate their position within the system of compensatory discrimination but to challenge its very definition. Eschewing the dominant narrative that emerged around the politics of 'becoming tribal', the movement instead forged a distinct identity predicated upon a shared history of disadvantage engendered by a nomadic past. Although the vimukat jatis are yet to achieve formal recognition as Scheduled Tribes, in 2009 the Punjab government recommended their reclassification to the Government of India where the claim currently stands. They achieved at least partial success in negotiating, and in the process redefining, the categories of reservation in postcolonial India, thereby providing a radical challenge to the definitions of caste and tribe.

¹ The term vimukat jati encompasses approximately 200 heterogeneous communities across India whose collective identity is defined by their previous notification under the Criminal Tribes Act (1871) rather than shared attributes based on culture, religion or ethnicity. Throughout this essay I use the term vimukat jati - meaning liberated community - because this was the term most widely used in petitions and representations to the government in Punjab. In contemporary India, they are known as Denotified Tribes.

² A version of the paper was presented at the graduate workshop Radical South Asia: Protests, Interventions and Movements held at the South Asia Institute, SOAS, London 9/10th May 2016. I am grateful to Professor David Mosse and Shreya Sinha for their comments.

³ The Constitution permits preferences for 3 categories of groups: Scheduled Castes (Arts. 15, 16, 46, 341, Cf. Arts. 330 & 332); Scheduled Tribes (Arts. 15, 16, 335, 342, Art. 244, Vth & VIth Schs, Cf. Arts. 330 & 332); Other (socially and educationally) backward classes (Arts. 15, 16, 46)

⁴ Rao (2009: 16)

⁵ Compensatory discrimination is the term coined by Marc Galanter to refer to the constitutional safeguards inaugurated for the Backward Classes. (1991)

⁶ NAI: Ministry of Home Affairs (MHA), 1980, 73/20/80-HPP

⁷ Ibid

⁸ Demands have shifted at times to demand a separate vimukat jati category of reservation

⁹ This view was expressed during fieldwork in Patiala in April 2016

¹⁰ Arora (2007: abstract)

¹¹ The term ‘becoming tribal’ is one used by Townsend Middleton to describe the process by which communities attempt to obtain recognition as Scheduled Tribe. (2016)

¹² Ibid

¹³ Karlsson (2001)

¹⁴ Middleton (2016: 58)

¹⁵ Gopal Jayal (2011)

¹⁶ NAI: Ministry of States, P Branch, 1950, 16(12)-P/50

¹⁷ Ambagudia (2011: 34)

¹⁸ Xaxa (2005)

¹⁹ NAI: MHA, 1952, 74/55/52-Public

²⁰ NAI: MHA, 1952, 74/14/52-Public

²¹ Middleton (2016: 96)

²² Kapila (2008)

²³ *The Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes* (Government of India)

²⁴ Povinelli (2002: 6)

²⁵ Middleton (2016: 7-8)

²⁶ Arora (2007: 213)

²⁷ Dudley-Jenkins (2003: 3-4)

²⁸ Not all of the vimukat jatis traditionally or presently practised nomadic or semi-nomadic lifestyles and many nomadic groups had not fallen within the purview of the Criminal Tribes Act

²⁹ Rao (2009)

³⁰ Middleton (2016: 57)

³¹ H.A. Rose, *A Glossary of the Tribes and Castes of the Punjab and North West Frontier Province* (Lahore, 1970 [1914]) 271

³² Kapila (2008)

³³ *The Tribune*, 17 April, 1931

³⁴ V.P.T. Vivian, *A Handbook of the Criminal Tribes of the Punjab* (Lahore: Punjab Government Press, 1912) 12

³⁵ Civil writ petition no.132 of 1975, D/- 5 November 1982, AIR 1983 P&H 230

³⁶ Kannabiran (2012: 5)

³⁷ Chandra (2013: 148)

³⁸ Uday Chanda argues that whilst primitivism was an evolving ideology it ‘defend[ed] imagined aboriginal ways of life in a modern age... [and] sought to civilize savages through commercial and educational initiatives without threatening their folklore, languages or community structures.’ (2013)

³⁹ Ambagudia (2011); Damodaran (2006); Kapila (2008)

⁴⁰ Bhukya (2010); Kannabiran (2012)

⁴¹ Major (1999); Nigam (1990); Radhakrishna (2001)

⁴² NAI: MHA, 1980, 64/22/80-HPP

⁴³ Prevention of Juvenile Vagrancy and Begging Bill (1952) for instance

⁴⁴ PSA: Home/Judicial – B Proceedings, 1947, 202

⁴⁵ PSA: WGB – B Proceedings, 1957, 5 (20)

⁴⁶ Ibid

⁴⁷ Although often presented as a choice, the vimukat jatis were often stuck in a cycle of poverty that did not allow them access to other professions

⁴⁸ Middleton (2016); Skaria (1999)

⁴⁹ Damodaran (2006)

⁵⁰ *The Tribune*, 31 August, 1981

⁵¹ Italics added by author. Article 16

⁵² NAI: MHA, 1980, 73/20/80-HPP

⁵³ Gopal Jayal (2011: 193)

⁵⁴ Baxi (2012: 180)

⁵⁵ Blomley and Clark (1990)

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