

**The Extent and Nature of Individual Tribal Land Alienation  
in Fifth Schedule States in India**

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# Table of Contents

<b>Introduction</b>	<b>1</b>
<b>Chapter 1</b>	<b>39</b>
Chhattisgarh	
<b>Chapter 2</b>	<b>67</b>
Rajasthan	
<b>Chapter 3</b>	<b>94</b>
Maharashtra	
<b>Chapter 4</b>	<b>123</b>
Odisha	
<b>Chapter 5</b>	<b>147</b>
Madhya Pradesh	
<b>Chapter 6</b>	<b>174</b>
Andhra Pradesh	
<b>Chapter 7</b>	<b>205</b>
Jharkhand	
<b>Chapter 8</b>	<b>235</b>
Gujarat	
<b>Chapter 9</b>	<b>255</b>
Tripura	
<b>Policy Implications</b>	<b>265</b>
<b>Annexures</b>	<b>269</b>

# Introduction

This is a report on the situation of tribal land alienation in India. Recent literature and public policy debates have focused attention on development- induced land alienation – large tracts of *adivasi* land acquired by state or negotiated by private parties, for setting up development projects, with no or very modest returns for adivasi, individually and collectively, and mostly, adverse after-effects. What has been missed in this, admittedly important debate, is the significant alienation that adivasis suffer across the country due to factors not necessarily directly related to large development projects and acquisitions of land related to those. Adivasi land is alienated also in small trickles, one family at a time, through the actions and inactions of state agents, lawyers, real estate brokers and land-hungry rich, acting in collusion, through individual purchases and acquisitions, mostly illegal and unrecorded, to deprive the often poverty-stricken adivasis of what is her source, not just of sustenance but also identity and cultural moorings. Indeed, even the stories behind the relatively minuscule number of ‘legal’ transactions between adivasis and non-adivasis, are in fact, studies in fraud and deceit, with adivasis being roundly shortchanged at every step. ‘Non-development’ induced adivasi land alienation has been a common, often un-recorded and under-reported phenomenon, for generations. The cumulative scale of these, is equal if not wider, than that of development-induced ones.

This report, based on detailed field work in Fifth Schedule states of the country – perhaps the first such, given the scale – is about the causes, the routes and processes of the phenomenon of “non development-induced” adivasi land alienation, providing an up-to-date picture of the goings on. The intentions of the study are strongly, policy-relevance. The issue of adivasi land alienation has engaged policy community for long, resulting in adoption of instruments - including some in colonial times – against the crisis, mostly state laws either proscribing transfers or providing checks against rampant take over of adivasi land by outsiders/non-adivasis. But poor results led, later, to individual states adopting measures to restore alienated land – thus seeking to undo failures of enforcement of the laws enacted earlier. Clearly, poor traction on those too – the outcome presumably, of the weaknesses of the laws, their poor enforcement by a complicit state system, and a parallel set of contradictory laws - has influenced more recent legislations, stronger sounding state laws, and specifically PESA 1996, seeking to

empower local adivasi communities themselves, to act to prevent alienation and better manage local resources, including land.

The findings of this study suggest that the failures of the past are being repeated yet again, with these new-generation laws, in how we seek to operationalise them, relying, for most part, on an unrepresentative revenue and tribal development bureaucracy, that have little accountability to tribal interests, in fact, being rather hostile. The findings seem also to suggest that laws, however well meaning and sophisticated – especially given the adverse context – can at best be a necessary condition for preventing land alienation, never sufficient. And that, perhaps laws need to be seen together with education, organization and mobilization by and of adivasis, around land and other rights, as a package of interventions to direct at protecting adivasi rights on land. This missing link – of adivasi agency and empowerment – needs to be squared in public policy debate, for the range of laws and state codes to have any chance of delivering on their promise. This is our core finding.

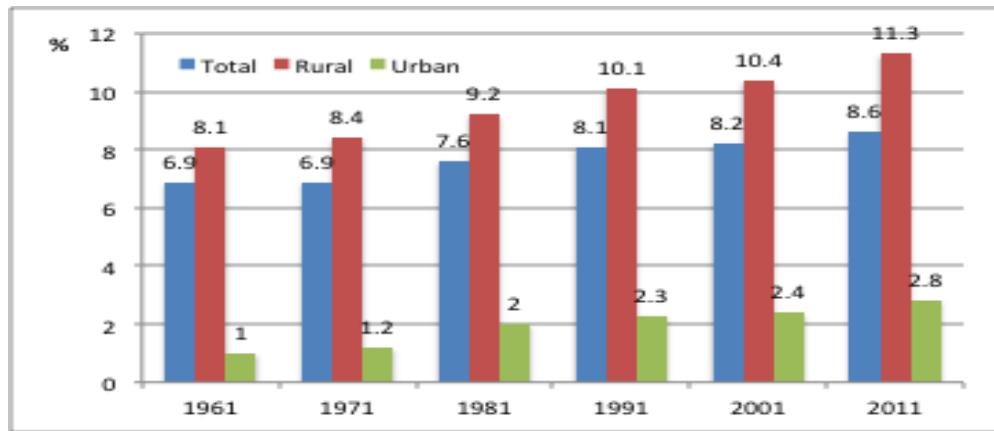
The rest of this introductory chapter is structured as follows: section 2 provides a quick snapshot of tribes in India, followed by that on tribal land and the extent of tribal land alienation. Sec. 3 presents the state of the art on tribal land alienation, trying to unpack its causes and processes, based on a rapid review of literature. Sec. 4 poses the research question, outlines the scope of the study, and summarises the set up of the research, last about methodology and field work conducted, including tools used. Sec. 5 catalogues the findings of the research by state, summarizing those that appear in individual state chapters to follow. In section 6, we recap key findings, and conclude with proposing recommendations for reforms (in sec 7), separately for state and civil society entities. This introductory chapter is followed by eight stand-alone state chapters, reporting detailed findings of the research, for each Fifth Schedule state (except Himachal Pradesh), followed by that from Tripura, the lone schedule 6 state included in the research, all on extent and processes of land alienation in each, as well as working of laws and any popular movements to respond to the crisis, drawing on historical analysis. This is the core of the report.

## **1.2 Tribes, tribal land, and tribal land alienation**

According to the 2011 census, India's Scheduled Tribe population stands at 10.4 crore persons, making up 8.6% of the total population (relative to 8.2% in 2001). The states of Madhya Pradesh, Maharashtra, Orissa, Gujarat, Rajasthan, Jharkhand and Chhattisgarh account for more than two-thirds of India's tribal population. As Fig. 1 shows, adivasis

are mostly concentrated in rural areas. The Constitution recognises 461 ethnic groups as STs, but according to one estimate the figure could be as high as 635, which would imply that these figures are significantly understated. (Stilden, 2006). Adivasis differ considerably from one another in language, culture, myths and beliefsystem. India has the second largest tribal/indigenous peoples' population anywhere in the world, next only to the continent of Africa.

**Figure 1 - Percentage of Scheduled Tribes to Total Population**



Source: Census 2011

### **Tribal land alienation**

In common with tribal regions the world over, the breakdown of the relative isolation of tribal areas in the name of development and progress has been accompanied by a continuous process by which adivasis have been systematically displaced from their traditional habitats and livelihoods, with little or no rehabilitation. One study estimated that the number of displaced adivasis till 1990, was in the region of 85 lakhs, of whom 65% are yet to be rehabilitated. (Government of India, 2008b, ch 7) Others put the figure of adivasis displaced at close to 2 crores. (Mander, 2002). As a result of this pattern of development, large sections of adivasi populations have been pauperized, either by being pushed back into the most barren and marginal fields or reduced from owner-gatherers to wage-earners or encroachers. Landlessness and insecure forms of tenancy are most common among adivasis. Official figures indicate that in 2004-05, the majority of ST households (70%) were either landless or had less than 1 acre of land.<sup>1</sup> Moreover, the share of ST households with small and marginal land holdings has been steadily increasing over time (see Table 1). Studies have also shown that land under ownership of

<sup>1</sup>NSSO, Report No. 516, Employment and Unemployment Situation among Social Groups in India

adivasis is often informally occupied by non-adivasis and on average, of lower quality, compared to land held by other backward classes. (Haque, 2001).

**Table 1 - Land holdings by size class**

Size of Holding	Scheduled Tribes					
	1980-81	1985-86	1990-91	1995-96	2000-01	2005-06
Marginal	39.8	41.3	43.4	45.6	47.1	49.48
Small	22.6	23.5	24.1	24.63	25.64	25.62
Semi-medium	20.5	20.2	19.5	18.78	17.58	16.44
Medium	13.7	12.2	10.9	9.54	8.32	7.38
Large	3.4	2.8	2.1	1.45	1.36	1.08
All size classes	100	100	100	100	100	100

Source: Agricultural census, Law ministry, 2006

Tribal land alienation is an omnibus term, that includes different forms and routes to loss of traditional land by adivasis. The Xaxa Committee report, looking into the condition of STs, proposes the following types or routes to alienation. (Government of India 2014: 255)

- Development induced alienation - large tracts of *adivasi* land acquired by state or negotiated by private parties, for setting up development projects, with no or very modest returns for adivasis, individually and collectively, and mostly, adverse after-effects.
- Community land of tribal communities, recorded as Government land in survey and settlement operations, and most state tenancy laws recognizing only individually owned registered land.
- State action of acquiring tribal lands for settling refugees, resulting in land alienation and displacement.
- Creation of National Parks, resulting in alienation of rights and consequent displacement and forced migration of tribal people.
- Illegal land alienation, due to participation of revenue functionaries and officials, and incorrect interpretation of laws, manipulation of records and permission

accorded to alienate land. State Laws are amended to include provisions that facilitate land alienation of tribal communities.

Thus, development induced land alienation, the first category, is just one of the many ways in which land is alienated.<sup>2</sup> There is also significant alienation that adivasis suffer due to factors not directly related to large development projects and acquisitions of land related to those. These include a combination of what another official report (Government of India, 2009) calls *State-acquiesced* land alienation (the result of active connivance of local government officials and passive connivance of higher authorities – through informal, unrecorded or disguised tenancies; ‘benami’ purchases; gift by adivasis; long term leases, power of attorneys, usufructory agreements; and manipulation of records and boundaries and loopholes in land laws) and *state-connived* land alienation (that with the knowledge of government officials and their direct or indirect involvement in it, due mostly, to defective surveys and settlements and no-recording of possession; irregular or inaccurate enjoyment surveys; permissions granted for purchase of tribal land or conversion of land from agriculture to nonagricultural purposes; and ineffectual implementation of restoration legislation).

Some of these are legal (and recorded), but mostly unofficial, illegal, and unrecorded, often loosely clubbed under the category ‘benami’, although, this term too does not capture the range of alienation types, described above. A very large segment of these are totally unrecorded, and happen through oral transactions, or entirely without the consent of the ‘seller’ – having been forcibly occupied, or taken over by rich and powerful, with active connivance of revenue bureaucracy, but without the owner’s knowledge. How widespread the phenomenon is can be gauged by data put out by Ministry of Rural Development (in its annual report for 2007-08). In that year alone, 5.06 lakh cases were registered for restoration of alienated land, covering 9.02 lakh acres of land.” Table 2, presents state wise-breakdown.

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<sup>2</sup>state sponsored - land alienation could be through acquisition (for industries, highways, SEZs, mining etc.) with no rehabilitation of the nature of land for land (or “collateral land alienation”, due to pollution, and erosion, among others. (Government of India, 2009)

**Table 2: Tribal land alienation in 5<sup>th</sup> Sch. states**

State	Claims	Area (acres)
Andhra Pradesh	65,875	287,776
Chhattisgarh	47,993	NA
Gujarat	47,926	140,324
Himachal Pradesh	3	5
Jharkhand	NA	NA
Madhya Pradesh	53, 806	158,398
Maharashtra	45,634	NA
Orissa	1,431	1,732
Rajasthan	651	2,300

Source: Government of India, 2009.

Considering that most land alienation is unrecorded, it is safe to assume that the data reveals only the proverbial tip of the iceberg, of the phenomenon of adivasi land alienation.

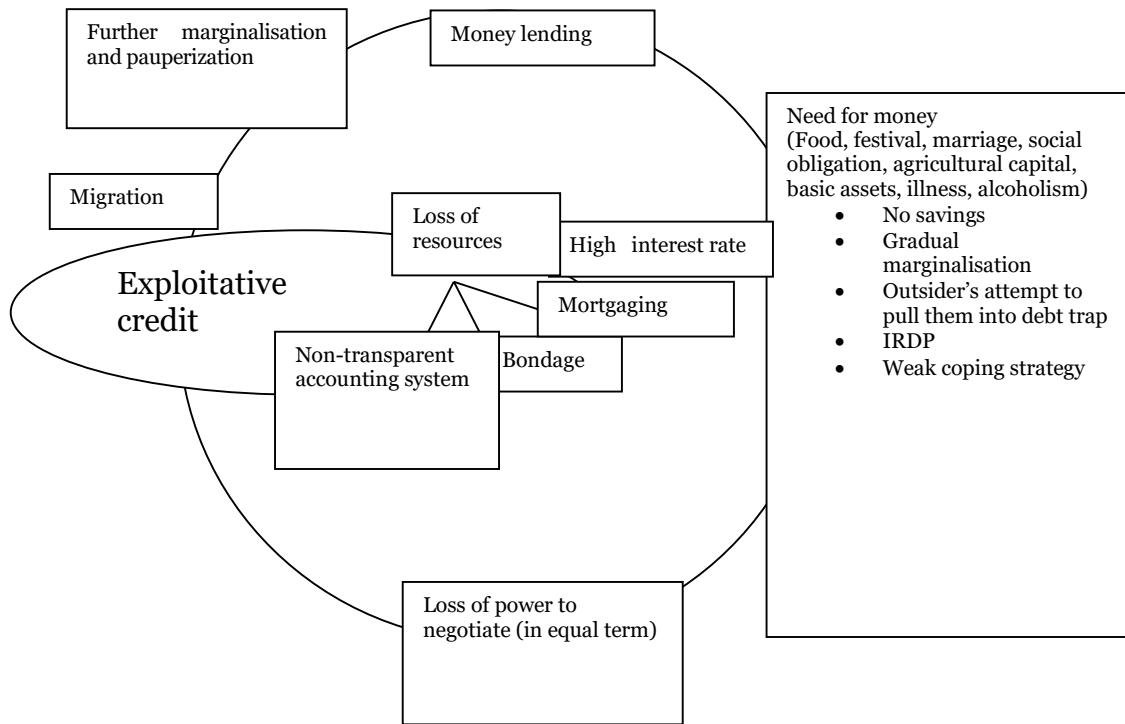
Land alienation to non-tribal individuals through individual transactions has been poorly documented historically and few estimates are available for the scale at which this form of transfer takes place, especially for transactions with an element of illegality involved. However, some studies have tried to estimate the extent of this phenomenon at the state-level. In Andhra Pradesh, a study by the Tribal Cultural Research and Training Institute proposes that nearly 80% of alienated land has been transferred to non-adivasis through sale and encroachment alone. In Orissa, informal debt mortgaging was found to be one of the principal methods of land alienation through private transactions, although the full extent of land lost through this process is not known.

### **1.3 Understanding and explaining tribal land alienation – the state of the art!**

The fundamental reason for tribal land alienation is the fragile, constantly shrinking economic base of adivasis. Their simple, non-monetised, self-sufficient economy crumbled into one in which the tribal became exposed to barter or cash transactions for the fulfilment of their basic needs. Private property in land extinguished their erstwhile right of free access, in accordance with their needs, to land. Settled agriculture brought with it its inevitable imperatives and linkages with credit, inputs and markets, rendering the tribal even more dependent and vulnerable. Growing food insecurity and non-availability of production or consumption credit through public institutions has led to chronic indebtedness in the tribal communities. This has also resulted in excessive dependence on local moneylenders for consumption credit, who charge usurious rates of

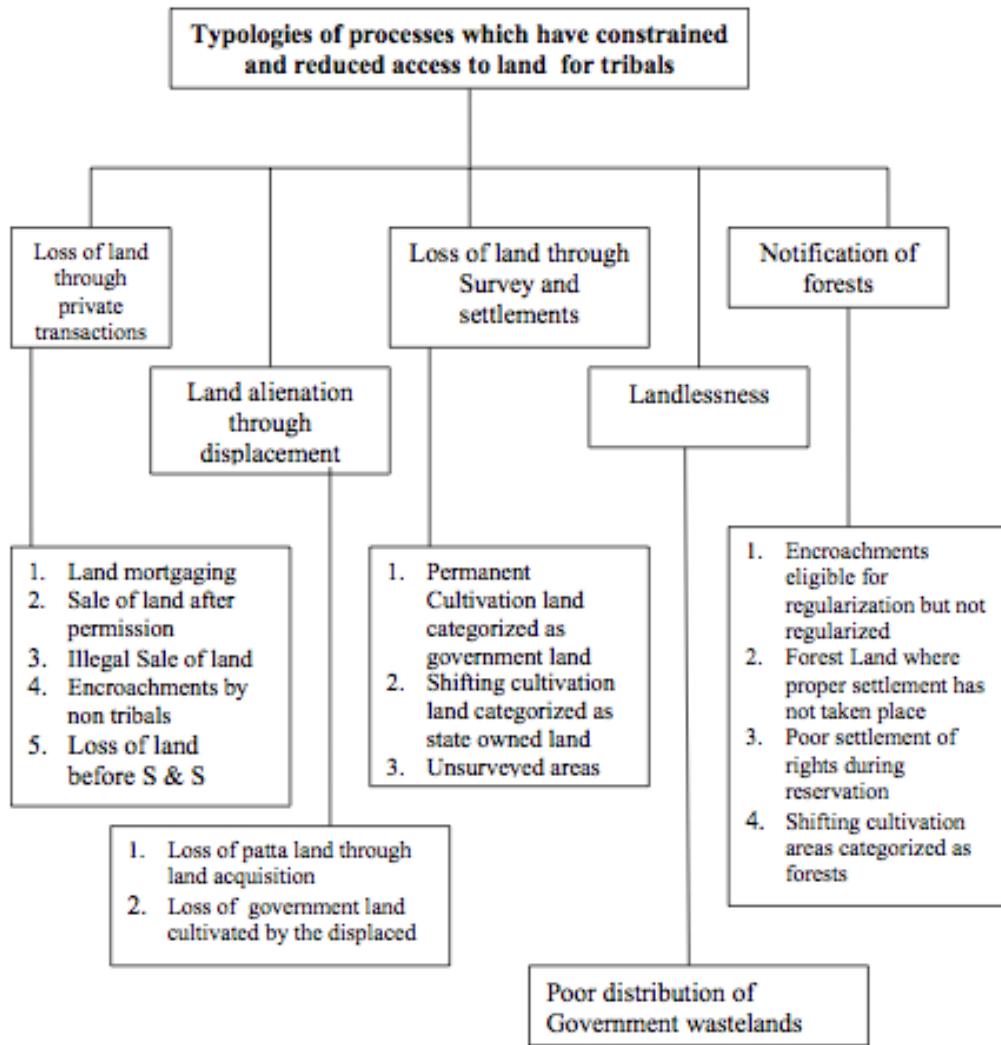
interest and keep them in perpetual debt, leading to the mortgage and ultimate loss of their lands (see figure 2). Indebtedness is one of the chief causes of land alienation among adivasis.

**Figure 2 - Moneylending & chronic indebtedness**  
(Source: Mander, 2002)



The various methods of alienation of tribal land by non-tribals are illustrated in figure 3. These have included loss of land through private transactions (with and without permission from state authorities), loss of land through mortgaging as well as 'Benami' purchases in the name of tribal spouses, adoption, gifts by adivasis to non-tribals, long-term leases to non-tribals etc.

**Figure 3 – Processes of land alienation**  
 (Source: World Bank, 2005)



One of the few studies that has studied non-'development induced' tribal land alienation, in some depth, is that by Kamal Mishra (2002), having looked at four states. Its survey of tribal households showed that prolonged indebtedness was the main cause of alienation. Poverty was widespread – some 82 per cent of families surveyed were in debt, most households earned less than Rs 5000 per annum. Depletion of forest and limited access to common property resources they had been forced to depend on market for purchase of items required for food, besides house construction, and livelihoods (cane, bamboo, used to make things). Indebtedness on account of religious and social obligations and expenses on litigation, medical treatment and alcoholism has further accentuated the

problem of tribal land alienation. Added to that, the report identified, urbanization and industrialization, combining with opening of these areas to outsiders – better communication –leading to influx of outsiders, marketization of land and alienation. According to the report, “all these factors with penetration of market forces in tribal areas were threatening to dispossess tribals of their land resources, on as large a scale through land alienation as development-induced displacement”. (Government of India, 2014: 280)

The study identified eight different methods adopted by land transferees in the study villages - sale, mortgage, benami transfer and transfer through marital alliance, and that in name of concubines. Others included oral transfers and notably, forcible occupation. The study underlines the apathy and insensitive attitude of officials handling land issues of adivasis. It found that that adivasis were less politically organized and were unaware of their Constitutional rights. More than 85 percent did not know that there were laws against transfer of tribal land. As way out, the study suggested plugging loopholes in the law and the need for monitoring enforcement of laws, providing legal aid to victims and creating awareness on rights and laws.

How about legal Safeguards for the Protection of Tribal Land Rights – how have they worked? The issue of adivasi land alienation has engaged policy community for long, resulting in adoption of instruments - including some in colonial times (Chotanagpur Tenancy Act, 1908) – against the crisis, mostly state laws either proscribing transfers or providing checks against rampant take over of adivasi land by outsiders/non-adivasis. Legal procedures exist in most states to prevent exploitative land transfers, ranging from the requirement of prior approval from district collectors to an outright ban on sale of tribal land to non-tribals. These have been followed with many states adopting measures to restore alienated land.

#### **Box 1: state level laws on tribal alienation**

States	State Legislations
Andhra Pradesh	<ul style="list-style-type: none"> <li>- Andhra Pradesh Schedule Areas Land Transfer Regulation of 1959</li> <li>- PESA, 1996, adopted but not effective. Rules/guidelines not framed.</li> </ul>
Chhattisgarh	<ul style="list-style-type: none"> <li>- No specific law on land alienation</li> <li>- Sec. 170-B of Chhattisgarh Panchayat Raj Evar Gram Swaraj Adhiniyam 1993</li> <li>- PESA, 1996, adopted but not effective. Rules/guidelines not framed.</li> </ul>
Gujarat	<ul style="list-style-type: none"> <li>- Bombay Land Revenue Code, 1879 (Sec 73A)</li> </ul>

	- PESA, 1996, adopted but not effective. Rules/guidelines not framed.
Jharkhand	<ul style="list-style-type: none"> <li>- Chotanagpur Tenancy Act 1908,</li> <li>- Santhal Parangan Tenancy Act, 1949</li> <li>- Scheduled Areas Regulation, 1969</li> <li>- PESA, 1996, adopted but not effective. Rules/guidelines not framed.</li> </ul>
Madhya Pradesh	<ul style="list-style-type: none"> <li>- Madhya Pradesh Land Revenue Code, 1959</li> <li>- PESA, 1996, adopted but not effective. Rules/guidelines not framed.</li> </ul>
Maharashtra	<ul style="list-style-type: none"> <li>- Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1966,</li> <li>- Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974</li> </ul>
Orissa	<ul style="list-style-type: none"> <li>- Orissa Scheduled Areas Transfer of Immovable Property (by ST) Regulation, 1956</li> <li>- Orissa Land Reforms Act, 1960 (for non-scheduled areas)</li> <li>- Orissa Government Land Settlement Act, 1962,</li> <li>- Orissa Prevention of Land Encroachment Act, 1972</li> <li>- PESA 1996, adopted, and rules and guidelines framed</li> </ul>
Rajasthan	<ul style="list-style-type: none"> <li>- Rajasthan Tenancy Act, 1955</li> <li>- PESA 1996, adopted, and rules and guidelines framed</li> </ul>
Tripura	<ul style="list-style-type: none"> <li>- Tripura Land Reform &amp; Land Revenue and Act, 1960</li> <li>- Tripura Tribal Areas Autonomous District CouncilAct,1979</li> </ul>

A combination of factors - the weaknesses of the laws, their poor enforcement by a complicit state system, and a parallel set of contradictory laws - have meant that laws have been flouted more often than they have been enforced.

The other measures include:

- i. Panchayati Raj (Extension in Scheduled Areas) Act, 1996 –effective in schedule 5 areas of states, and that seeks to empower local adivasi communities (through Gram Sabhas) themselves, to act to prevent alienation and better manage local resources, including land, are still show much results.
- ii. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is used as a mechanism by which to restore lands belonging to tribal communities – through provision of award of title deeds to adivasis in forest lands, which has been used to some good measures in select cases – it has no implications for protection from further land alienation.

And yet, land alienation is an ongoing phenomenon (Box 2). (Refer Annex 1, for detailed information on this).

**Box 2: Tribal land alienation – the state picture!**

Source: AITPN reports about tribal land alienation in India

<https://js2012.wordpress.com/2012/07/05/tribal-land-alienation-in-india/>

**Andhra Pradesh:**

Despite stringent protective provisions (under Andhra Pradesh Schedule Areas Land Transfer Regulation of 1959), adivasis face alarming levels of alienation of their lands. Non-tribals presently hold as much as 48 per cent of the land in Scheduled areas of the state. 72,001 cases of land alienation have been filed since the 1959 Regulation came into effect, involving 3,21,685 acres of land. 70,183 cases were disposed of and 33,319 cases (47.47 per cent) were decided against adivasis involving 1,62,989 acres of land. As of January 2007, about 300 cases were pending in Andhra Pradesh High Court involving about 2,500 acres of land.

**Jharkhand:**

In Jharkhand, cases of alienation of tribal land have risen despite two protective laws – Chotanagpur Tenancy Act and Santhal Parangan Tenancy Act. As of January 2007, 3,789 cases had been filed with the Special Area Regulation Court in 2007 for recovery of tribal lands. Barriers are many - lack of lawyers to take up land-related cases of adivasis has delayed adjudication. Around 5,500 land-related cases of adivasis were pending in various district courts in Jharkhand as of March 2007. Government of Jharkhand had an annual budget of Rs 50 lakh that year, to provide legal assistance to poor adivasis to pursue their land-related cases. However, less than 10 per cent of the total allocated budget was spent over the last six years. Lawyers were unwilling to fight cases on behalf of adivasis seeking government assistance. The offer of Rs 5,000 per case was cited as one of the main reasons for pendency of land-related cases in courts.

**Madhya Pradesh:**

The continuing gravity of the problem of tribal land alienation in Madhya Pradesh may be assessed by Census figures which reveal that the percentage of ST cultivators to total ST workers fell from 76.45 per cent in 1961 to 68.09 per cent in 1991. Correspondingly the percentage of ST agricultural labourers to total ST workers rose from 17.73 per cent to 25.52 per cent during the same period. While landlessness as a phenomenon is visible across other marginalised groups, the impact on adivasis, who have been culturally

dependent on land and lack the education and skills necessary to pursue alternative livelihoods, is far more severe. In 2001, the literacy rate for STs was 47%, well below the national average of 65%. Thus, loss of their land is far more likely to push the already disadvantaged tribal community into extreme poverty. As per the estimates of the Planning Commission, 47% of scheduled tribes live below the poverty line, compared to 37% of the scheduled caste population and 42% of the total rural population

**Maharashtra:**

In Maharashtra, both the protective law, Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974, and restorative, Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974, have failed to check further alienation. According to Annual Report 2007-08 of the Union Ministry of Rural Development, a total of 45,634 cases have been filed in the court in the state. 44,624 cases have been disposed of, of which 19,943 cases (44.7%) involving 99,486 acres of land were disposed of in favour of adivasis and 24,681 cases (55.3%) against adivasis. 1,010 cases were still pending in the courts.

**Orissa:**

There has been large alienation of tribal lands in Orissa. According to the Annual Report 2007-08 of the Union Ministry of Rural Development, a total of 105,491 cases alleging alienation of 104,742 acres of land have been filed in the court in Orissa. An estimated 104,644 cases were disposed of by the court - 61,431 of these, were disposed of in favour of adivasis and 56,854 acres of land was restored to adivasis.

**Rajasthan:**

Rajasthan state government has largely failed to check alienation of tribal lands. According to the Annual Report 2007-08 of the Union Ministry of Rural Development, a total of 2,084 cases of land alienation involving 6,615 acres of land have been filed in the appropriate courts. 1,257 cases have been disposed of, of which only 187 cases (involving 587 acres of land) were in favour of adivasis, while 53 cases involving 187 acres were rejected.

(i) What explains poor outcomes for prevention of land alienation? Specifically, (ii) what are the causes, and factors at play, that facilitate the non-stop alienation? We know, it's a combination of 'push' and 'pull' factors at play, but our understanding of how these play out, in different settings is limited. (iii) What are the different processes of land

alienation, in the different varieties that they occur – the mechanics in different state and local settings, and the different routes leading to ‘alienation’ outcomes. (iv) Specially, there is limited understanding of how, differing legal framework and institutional environment in each state, work in the specific context of the different mix of push and pull pressures, to create specific outcomes in each state setting.

#### **1.4 Research set up – questions and scope, data collection**

The object of the study is alienation where individual transfers between adivasi and non-adivasi have taken place, and that excludes alienation that is development-induced. The scope of the study is limited to 5<sup>th</sup>Schedule areas of the country. The Fifth Schedule of the constitution, which covers parts of nine states having high tribal population, provides special protections to adivasis living in these areas, including measures to prevent tribal land alienation. Relevant states have instituted special laws, mostly applicable in 5<sup>th</sup>Schedule areas, to prevent land alienation. Despite such measures, the available evidence suggests that significant land alienation has taken place in these areas, and understanding the mechanisms through which such protections have been circumvented or rendered useless was an important focus of the study. Given its coverage of all schedule 5 states, it is hoped, the study would provide a comprehensive understanding of the extent as well as the processes and mechanisms through which tribal land has been transferred to non-adivasis in Fifth Schedule areas. At the end of the bulk of our research, we decided to check out how the Sixth Schedule provisions work for tribal empowerment, with implications for greater control over land and other resources, and potentially restrained land alienation, as contrasted with Fifth Schedule provision, to be able to throw comparative light on our findings. Both Fifth and Sixth schedules of the Constitution define governance system for adivasis, former in Central India, later in Northeastern India.<sup>3</sup>We hoped this comparative insight would help us better propose reform measures. For this part of the research, we chose West Tripura district of the state.

#### **Research questions**

The study was geared to address and answer the above puzzles. In the initial proposal, the set of questions we set out to address included:

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<sup>3</sup> Whilst Fifth Schedule builds its architecture on safeguards for tribals to protect them against exploitation, with the centralized administrative bureaucracy charged with protecting tribal interests, Sixth Schedule provides tribes themselves, through a series of representative bodies, the lead role in governance and self-protection.

1. The extent of tribal land alienation in the country, covering all 9 Fifth schedule states. Specifically, it required mapping, in the selected study area of 200 villages, how much land was transferred from tribal to non-tribal owners from 1950 to 1980, and from 1980 to 2010 – based on a review of land records, for the three timelines?
2. In a selected shortlist of 50 villages, identifying the main mechanisms by which tribal land was *legally* transferred to non-tribal owners? Checking whether these transfers were wilful and were official procedures followed? Also identifying, in those 50 villages, the incidence of 'benami' land transfers and what are the mechanisms by which tribal land is *illegally* occupied by non-tribals through these transfers?

The pilot phase of the research (March-July 2014), threw up lots of learnings that helped revise the setup of the research. This was mostly about the challenges of conducting research, involving reliance on availability of government data – land records primarily, but also other reports - with little certainty of appropriate data available readily, or amenable to extraction, in the forms required for the study.

- Land records were not available for all states, for all three time periods.
- Where they were available, only a limited number of states had land records that captured title deeds disaggregated by communities, especially for STs.
- Extensive data collection – involving both quantitative data on extent and qualitative data on processes – in nine states, on the ground, required us to have strong local partners. These were not available easily, in all states.

We therefore, had to scale back our ambitions, in terms both of the focus of the research, and the spread of the number of cases. For the main phase of research (conducted between July 2014 and December 2015), we fine-tuned our focus to try to understand, in as nuanced way as possible, the processes of land alienation, away from the earlier focus on mapping the extent of land alienation, in the 200 villages. This entailed a decrease in the number of villages we took up for data gathering. Availability of reliable grounded local partner organisations also contribute to this revised phase.

The final research questions that we now were:

- i. the extent of land alienation in 10 villages in, one district each of the 9 states - where land records, providing disaggregated ownership data, were available.

- ii. the processes of land alienation, including the working of laws and rules to prevent land alienation, in 2 villages in each of the 9 states

## **Methodology and research tools**

The set up of the study is largely descriptive, in that it assess the extent of individual transfers of land, both legal and illegal, from adivasis to non-tribals. At the same time, it involves an exploratory element, to understand the processes and mechanisms by which such transfers have taken place, and how law fails adivasis at every turn. To achieve this, the study relies extensively on village-level fieldwork, combining both qualitative and quantitative methods for data collection and analysis.

This entailed use of multiple research tools.

- i. Survey of land records of the particular revenue villages (10 in each state, totaling 90), over three time periods (1950, 1980, and 2010) to examine changes in land holding patterns over two discrete time periods of thirty years each – from 1950-80 and 1980-2010 – thereby providing an estimate of the extent of tribal land alienation over time. Data sources used were record of rights per landholder and *Girdawari*/field cultivation assessments. These were available for use in Rajasthan, Chhattisgarh, and Madhya Pradesh; only partially available in Gujarat, Maharashtra and Jharkhand; and not used at all in Odisha, and Andhra Pradesh.
- ii. Conducting ‘participatory land surveys’ (PLS), in 2 villages, from the sample of 10 in each state, to understand, through detailed discussions with tribal families using FGD mode, the extent of land alienated. This required us to use land records data of the village and village map, to use as basis for the discussions. This was critical, and in most cases, the most reliable too, to check on extent, given that either land records for all 3 time periods are not available in most states, and more importantly that land records provide window only legal transfers. And we know that illegal and unrecorded transaction form the largest chunk of alienation.<sup>4</sup>

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<sup>4</sup>PLS for Jharkhand: it was conducted only against the land records of 1989 since we did not have the record of rights for 2014 with a caste column and neither did we have a map. Therefore, the PLS for the state is only partial and not fully reliable.

- iii. Household surveys, in as many households possible in each village, attempting to cover the whole village, to understand and quantify the various social processes and institutional mechanisms through which legally documented tribal to non-tribal land transfers have taken place, as well understand how illegal/unrecorded, including benami, transactions happen.
- iv. Focus Group Discussion in each village, 3-4 typically, with a mix of old men, young men, women, to better understand these social processes, in a collective group environment, to unpack factors, drivers and routes to tribal land being transferred to non-tribal hands, legally and illegally.
- v. Interviews with key informants, especially main local stakeholders in the land alienation process - village sarpanch, Tehsildar, Collector, head of household of all cases of individual alienation in a village, and any civil society member involved in land related work including our partner

### **Case selection**

Districts were selected based on a multiple set of criteria – their schedule 5 status was of course the basic minimum, but also concentration of tribal population, and finally ease of conducting research, including availability of reliable and robust partner. Other practical considerations, such as security and logistic considerations too contributed. In the districts selected, we chose a sub-district (except Orissa, where we had to choose two sub-districts), based on similar considerations, and within those, selected 10 villages.<sup>5</sup> Two of these were selected purposively, with an eye to identify villages where large alienation had taken place (vs where only a little had happened, so as to set up something like a comparative study, although this was not possible everywhere). The other 8 villages in each district were chosen randomly, from a list with large tribal populations. Given the need to check for alienation across time periods, we needed to choose villages that were revenue village in 1950s (other two being 1980 and 2014). So we usually prepared a list of 15-18 villages from Census data, and cross checked with revenue officials to draw up the final list of 8 villages. As we will see next, attempt was made to check land records for all 10 villages in each district. PLS, household surveys,

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<sup>5</sup> Here we also selected West Tripura district, in Tripura state, a Sixth Schedule district and state, for drawing comparative insights.

FGDs and interviews, were conducted in the 2 villages selected in each district, for detailed research.

**Table 3: states, districts and villages**

State	District	Detailed study, Village 1	Village 2
Andhra Pradesh	Adilabad	Malkapur	Viajapur
Chattisgarh	Raigarh	Durgapur	Fatehpur
Gujarat	Tapi	Ozar (Songarh block)	Pokharan
Jharkhand	Latehar	Lanka	Kope
Madhya Pradesh	Shoepur	Bankuri	Kanerkheda
Maharashtra	Palghar	Netali	Dhamkhind
Orissa	Koraput	Kodigaon	Beherguda
Rajasthan	Udaipur	Kodiyat A	Kodiyat B
Tripura	Tripura West	Bhawan Choudhry para	Bhoojungnagar

The research was commenced in November 2013; research methodology and tools piloted in select states and districts (Maharashtra, Orissa and Chattisgarh) between March-May 2014, findings used to refine research tools and data collection plan, and detailed data collection conducted through July 2014 to December 2015.

### 1.5. Findings

Below, we provide summary findings of the research, for Fifth Schedule states, on extent and processes of land alienation in each, as well as on the working of laws and any popular movements to respond to the crisis.

**a. Andhra Pradesh** research was conducted in Adilabad district ( 16.74 % ST pop), and the two villages chosen for detailed study were Malkapur and Viajapur, both of Gudhiaatnoor sub-district, former a remote village, latter close to markets. AP land records do not provide any information on caste of title holder, so that was not a helpful document for getting a handle on the extent of land alienation. That also meant PLS had no baseline to use as basis for checking current tribal land holding, based on participatory methodology. We had to rely on household surveys and interviews, as key tool both for extent and processes of land alienation. In Malkapur (the remoter village), 30% of the households surveyed – and this was almost all tribal families in the village -

reported land alienation. That figure in Vijaypur was 34%. Clearly, land alienation is significant. The processes involved were varied. Underlying much of it was poverty, and especially indebtedness. Large sections reported selling land, illegally, to obtain cash for health or ritual reasons, or pay off debt. Many mortgaged their plots of land for a variety of purposes – and those were never returned to them, as they piled up interest. Notably, some households also reported having their lands taken over forcibly or without the owner's knowledge, through illegal occupation, and/or local revenue officials' involvement. In the particular case, there was also widespread transfer of adivasi land to Lambada community, themselves adivasi, but outsiders to the locality. Overall, proximity to markets makes alienation easier, as did influx of non-local/non-tribals. Money lending, an effective tool employed by non-tribals to grab land. Related to this was the fact that moneylending proved to be a favourite tool used to gobble up land.

Laws against alienation and for restoration, it appeared, were hardly of help.

The chief instrument to prevent loss of land by adivasis is AP Scheduled Areas Land Transfer Regulation, 1959, that prohibits transfer of tribal land. But this has not helped, as most alienation is illegal and unrecorded, most being benami. And Revenue official are complicit in this thriving business of alienation, with poor enforcement of protective provisions by revenue officials. These have led to landlessness increasing in AP, generally, and specially among adivasis.

**b.** In **Chattisgarh**, Raigarh was our sample district, the two villages selected being Durgapur and Fatehpur, former connected to markets, latter further in-country, thus a little remote. In the first village, PLS data reported 40% households had lost land; that figure in Fatehpur the first village, was 35%. In both cases land records showed lesser levels of alienation – understandable, as most alienation is unrecorded and illegal, that will not show up in land records. The processes of loss of tribal land, as was the case with AP, involved a combination of factors, including large influx of migrants (Bangladeshi settlers, in early 1970s, that started appropriating land, for agricultural purposes); influx of other outsiders, and the large acquisitions for projects in the area, also creating a general condition inimical to adivasi interests – powerful people, including the Administration, often acting on behalf of corporates, to persuade and where needed, force adivasis to give up land. Together, these conditions helped create a market for land, where none existed before, and a strong 'push' for alienation. The adivasi's own hapless condition – poverty, indebtedness - and the rise of consumerism, were the other 'pull conditions', resulting in the widespread loss of tribal land.

The law is not helping – Chattisgarh has no law specifically to prevent land alienation. But Section 170-B of Chhattisgarh Panchayat Raj Evam Gram Swaraj Adhiniyam 1993 (amended in 1997) empowers Gram Sabha to act to restore alienated land, with the final responsibility, in this matter, resting with the Revenue Administration. But poor awareness, empowerment and accountability, mean Gram sabhas, have not taken this up proactively. And although relevant laws, such as Chhattisgarh Panchayat Raj Adhiniyam, 1993 (CPRA), have been amended to apply PESA 1996, and thus empower Gram Sabhas in this matter, absence of rules and guidelines, means their application has been a non-starter. The little traction that the study found, in the move towards adivasis gaining control over their land and resources, was in Dharamjaigarh (as well as surrounding blocks of Raigarh, as well as in adjoining districts) with increasing push back by adivasis and their organisations against mostly land acquisition, thanks to the work of campaigns such as that by Jan Chetna Kendra and Ekta Parishad, creating awareness on tribal rights issues and a sense of resistance.

**c. Gujarat**’s study – in Songarh block of Tapi district (84 % population is ST, 2011 Census) - showed up similar alienation. Land records do not provide caste data, hence they were of little help in assessing the extent question, and PLS too did not therefore have a baseline. However surveys and other tools helped. Ozar – the remoter village - showed no alienation, but Pokharan, located closer to towns and markets, showed a massive levels of land transfers – only 10% land remains with adivasis, rest had gradually passed on to the hands of outsiders. The processes involved were varied: some involved formal sale, after Collector’s permission, mostly for use as stone quarries, farmhouses, hotels. There were also large instance of conversion of private or common land as wasteland, and their allotment to stone quarries – by panchayats. Since adivasis are themselves dependent on stone quarry for survival, they were bound up in this collusive arrangement between revenue bureaucracy and businesses, resulting in their gradual loss of land and further pauperization. When these factors did not help, the land lobby also resorted to threat of violence and lure of compensation – forceful selling for stone quarries. In some cases involved term leases of land, where chance of restoration is slim.

Laws don’t seem to be working for adivasis in Gujarat. Transfer of adivasi land is permissible, under certain conditions (Sec 73 A), including permission by Collector, that, the research found, was mostly about box ticking, with little effort to prevent the non-tribal push for land. The law also permits adivasis to mortgage their land to state

government or financial institutions in order to receive loans. Fact that such land can be auctioned by credit cooperative societies and banks to recover the loan, effectively means land alienation is encouraged, although through the backdoor. And although PESA has been adopted by the state, this has been faulty – it gives no authority to Gram Sabhas regards mining in scheduled areas, and is also confusing about their authority over minor forest produce, among others. Poor awareness among adivasis as well as the revenue administration, and capacity, regards both land alienation laws as well as PESA, meant even good intentions, could not be translated for the good of adivasis. The study also found evidence of state actors' complicity in land transfers – one method used commonly was acquiring land for government use (panchayat typically) and later allotting to stone quarry. The silver line in all this, the study found, was the potential for popular movements, that, in the case of Ozar village, worked with other factors (remoteness chiefly), to create awareness and resistance against rampant alienation.

**d. In Jharkhand**, the site of the research was Latehar district(26.2 % population of STs, 2011 Census). Here too, given no caste data, we were unable to use land records and PLS, and relied for most part on surveys and interviews, among others. In both Lanka (Kharwar tribe) and Kope (Oraon) villages, 20-25% of HH surveyed claimed being victims of land alienation. The processes were similar -poverty was the overriding factor pulling adivasi towards alienation. Most adivasis, of Kharwar or Oraon tribe, were manual labourers, and had at most a small plot that they farmed, to meet daily needs. The study found starvation like conditions widespread in the area. Indebtedness was therefore common, and mortgage of land for loans, rampant, land that in most cases passed on, eventually to the moneylenders. Notably, the study came across cases of forced evictions/take over by powerful people, as being equally common. These were by dominant caste landlords and businesses, that also seemed to have 'captured' local authority, with devastating results for adivasi rights. These were the illegal and /or benami transactions. There were formal transfers too, after taking due permission from concerned authorities – again something the study found, not a very difficult process. There were cases also of 'bhumidan' of tribal land, gift to non-tribal, that, although in law requires the sanction of Revenue authorities, is very difficult to organize. The study found a very large section of the victims, not aware who they had lost the land to – reflecting the complete exclusion of the adivasis from the process (further fueling alienation).

Jharkhand, notably, is the only 5<sup>th</sup> schedule state, that has colonial era laws against land alienation. Santhal Pargana Tenancy Act (SPTA) prohibits transfer of all lands, and

allows transfer only in a few categories, while the Chota Nagpur Tenancy Act (CNTA) 1908, permits sale of adivasi lands only to other adivasis within the same police station area, and that with the permission of the Deputy Commissioner [Section 46 (a)]. Both, outcome of the tribal movements in the state in colonial times, have strong tribal rights protection regime. The two also provide for the recording of various customary community rights in land and other resources – providing legal protection to their customary law and practice. But these pro-adivasi laws, have been greatly watered down in recent times. The provision for restoration in the CNT Act is given under Section 46(4) and Section 71A of the Act but the former provision has a 3 year limitation within which a complaint can be filed to the Deputy Collector. Given the opaqueness of land records, collusion between revenue bureaucracy and land grabbers, and poor awareness and organisation among adivasis, this 3 year bar, has proved a big exclusion. CNTA also permits alienation of land for specific purposes such as mining (Section 49), that have been abused, to favour private interests.

An important step taken in Jharkhand, for restoration of illegally alienated land to individuals is the Scheduled Area Regulation (SAR) 1969, providing for setting up of SAR courts to expedite the process of restoration. But these have been working very poorly. In fact, after 1969, the increased regularization of illegally alienated land has been made, primarily through the SAR courts, the very institution designed to check alienation. Other laws with the potential to protect adivasis have failed too. PESA, 1995, though adopted by Jharkhand, is not fully owned by state government, ever keen to circumvent its provisions, especially on empowering local panchayats on acquisition of land. No rules and guidelines have been provided, and hence much of PESA lies unimplemented. Similarly, FRA 2006, acts a barrier against tribal interests, with various orders for eviction issued by forest department. These together reflect the wider break down of laws and systems, resulting in poor protection of adivasis, and large alienation. People's movements have been instrumental in stemming the tide of alienation, somewhat – especially with the Naxal movement having created a counter narrative, and a network of tribal rights groups active, although not many are organisations of the adivasis for adivasis. Overall, the study found alienation of adivasi land to non-adivasis having declined somewhat, due to the rise in consciousness and struggle for land. On the other hand, Adivasi land continues to be alienated for 'public purposes' like mining and industry.

e. In **Madhya Pradesh**, Sheopur district was the site of the research (23.4% ST population, 2011 Census). The study found significant land alienation in Bankuri village, that has seen large influx of outsider farmers, and local dominant caste communities, who have over time, taken over much of the tribal land. In Kanerkheda, 36% households reported being divested of their land. In another, Bankuri, the figure was 70%. This is significant. For the down-and-out adivasis of Sheohar, and other tribal tracts in the region – saharia adivasis in neighbouring Baran district of Rajasthan, have recently been in the news for starvation deaths – continued possession of their ancestral land, is a daily struggle, and loss. There is the forest department that sees their ancestral patches of land as encroachment, and this later has the force of law, rather their property right. And being traditionally forest dwellers, farming on land they still hold, is not something that comes naturally to them. Added to that is the need to balance the daily struggle for survival - for food and for sustenance – with investment in agriculture, to be able to make use of the land. Contributing to this is piling up debt, with the very plots of land, as collateral with moneylenders, with eyes set on the land, to acquire. A revenue and tribal administration bureaucracy, that has no interest in protecting tribal interests, or any sympathy for their plight, rather, gains form the collusive nexus with the land grabbers themselves, is, in the circumstance, not the best break against the rising tide of land alienation. The study found, Punjabi and Jat farmers, as well as upper caste landlords, employing all means, fair and foul, to divest the adivasi of land. Violence and force, seem to be, from our discussions, the tool of choice, if not the only.

Madhya Pradesh Land Revenue Code, 1959[Section 165(6)], debars the transfer of agricultural land belonging to adivasis in an area ‘predominantly inhabited’ by adivasis [6(i)] and in other areas, the transfer requires the permission of Revenue Officer with reasons recorded in writing [6(ii)]. A later amendment in 1981 added the sub-section 6-C, which lays down the principles and facts which are to be considered by the Collector while granting or refusing to grant permission. Further, Section 170-A stipulates the restoration of land that has been transferred in contravention to the above sections, and Section 170-B provides for the reversion of land of members of aboriginal tribes which was transferred by fraud. These are important protections. MP has also enacted laws in alignment with PESA 1996, to empower local communities and panchayats over land alienation - MP Panachayati Raj Avam Gram Swaraj Act (MPPRGSA) in 2001.

Yet, the outcomes for adivasis, as the study itself reports, has not been positive. A study by the Tribal Research Institute of Madhya Pradesh (1973) reported (on sec 6 of the 1959

Act) "...All other clauses in the interest of the aborigines seem to be overshadowed by this (Section 165-C) and transfer of the land from the tribal to the non-tribal is a regular feature". (Amanullah, 1973). The study noted that out of the 225 cases for repayment of loans, 102 (about 45%) were just for repayment of Government dues/loans. And cases of restoration (Section 170-C) bar the appearance of advocates in those proceedings, while Section 170-D bars second appeals. On second look, the laws are not that strong, after all. And even these are not implemented effectively – with large number of cases remaining pending and possession ordered by courts, still remain to be executed. (Mander, 2002). But, as with other states, the rub is really, in the subversion of the law, regards land alienation, and the play of money and power, and self-interest, working collusively, to deny adivasis their right. Poor tribal awareness and organisation, prevent much push back. Of the two villages for the study has seen some positive results, and a slowing down of alienation, due to adivasis organizing and standing up to forceful and other illicit practices, resulting in checking land alienation somewhat.

**f. In Maharashtra,** research was conducted in Palghar district (...% ST population). Land records do not show caste, hence not able to use this, or PLS appropriately, to check out extent of alienation, relying on surveys and interviews. Of the two villages, Netali – located on Mumbai-Ahmedabad highway, and connected to markets – showed significant alienation (15 % decrease in land ownership over the years). Dhamkhind – located in the interiors, and that has seen some significant mobilization on land rights by Adivasi Ekta Parishad (formerly Bhumi Sena), saw no alienation. These findings of our research confirms studies done by Maharashtra Tribal Rights & Training Institute (Pune), on land alienation in the undivided Thane districts in 1979 and 1987.

Poverty turned out to be the main driving force for the alienation in the area – most adivasis are manual labourers, with at best, marginal holdings to farm. Land is overwhelmingly poor in quality and is unirrigated. Advent of outsider traders (traditionally bania and parsi, but now wider social base), had resulted in introduction of moneylending, with adivasis mortgaging their land for cash advances, resulting in widespread indebtedness, and gradual transfer of occupation of land, and where possible titles. Survey and settlement operations, conducted in colonial and later years, had in the first wave of alienation, anyway dispossessed age-old adivasi land owners, with no papers to show, or awareness of the laws to obtain papers, and thus be excluded from formal titles. Industrialisation and associated urbanisation (since 1970s), acted as the next wave, with the region experiencing further outsider advent, and concomitant

pressure on land. Brokers entered with an intent to acquire land by any means - forceful, cheating, sale without consent, mortgage or lease. Most transfers, the study found, was by way of sale of adivasi land – with permissions from revenue authorities. Others were through mortgage and leasing out land, and dispossession, with no formal records. The study also recorded some transfers also through forceful acquisition, or by brokers working in collusion with revenue authorities and police as well as lawyers, to cheat and adivasis of land.

Maharashtra has laws preventing free sale and transfer of adivasi land - in 1960s, Sec. 36A of Maharashtra Revenue Code1966 was amended, requiring transfers to obtain permission of the Collector. Indicating the strong protective intent of the law is its provision that deems that no sale or transfer in favour of a non-Adivasi can be sanctioned, unless it can be proved that no adivasi, residing within a radius of 5 kms, is willing to buy it. In 1974, Maharashtra Restoration of Land to Scheduled Tribes Act was passed, to further shore the laws. And Maharashtra adopted PESA 1996, giving powers to local communities and panchayats over land and other matters. But as in most other states, strong laws and provisions do not, by themselves, deliver protection. The reasons are not far to see. State laws and guidelines are overlooked at best, flouted with impunity, at worst. Revenue authorities, under pressure from land and real estate lobby and powerful forces, to which they are themselves tied in, give permissions for sale without due diligence. Collusion at local level – panchayats, revenue bureaucracy, police and lawyers, and land brokers – ensures that laws do not work for adivasis.

Adivasis themselves are too unaware and unorganized, and too much in need, to counter the push by land lobby. Further awareness and organization among adivasis, to be able to use the opportunities provided these laws – such as PESA, 1996 – is too poor. This reflects poor awareness and capacity within revenue and tribal bureaucracy to implement the laws in place. A recent study revealed that 56% cases brought for restoration were proved invalid, representing the forces that adivasi find themselves against, even though the law is in their aid. But Palghar (and the undivided Thane district) is also a place that has seen strong tribal people's movements against and alienation, especially with the work Adivasi Ekta Parishad, formerly called bhoomi sena. AEP has had a long history of struggles in the area, and in Dhamkhind - the village with no land alienation - campaigns, and court cases, grassroots mobilization, and success. These struggles, for land and forest rights, and various campaigns taken up, have clearly, we noticed, mobilized adivasis, creating awareness, and the support network to allow

them to fight for their rights over land. Struggles for land and forests, are not easy. There has been push back against AEP activists – false cases against many members – but the strength of the movement, means that the sangathan is able to fight back. And in the process further create awareness, about land, laws and rights.

**g. Research in Odisha** was conducted in Koraput district (Over 51 % ST population, 2011 Census). Land records appropriate for our purposes were not available to us. Hence, we had to rely on surveys and other research tools to get to our extent and process questions. It was clear, from our discussions and survey of documents that land alienation, in the district was widespread. Some 25% families in Kodigaon reported they had faced loss of their land. Similar was the case with Beherguda village. Indebtedness and resultant distress sale, the study found, is the chief mode of land transfer in the area. Brokers that act as middlemen scouring the land for adivasis in distress, to then offer them a bail out, with loans a variety of purposes, all at usurious rates, that adivasis are, then bound in, and finally fall prey to. Alongside, fraudulent agreements, where brokers, lawyers, and revenue officials are all party, against the illiterate, desperate and credulous tribal, act as the other modus operandi.

This contemporary process of slow land alienation, is founded on the history of the influx of non-tribals into the area, including as ghauntias (revenue intermediaries) during colonial times, and land revenue surveys, that dispossessed adivasis farming the lands for generations, through flawed recording, that continues to this day. Demarcation of tribal land as forest land, was the other colonial legacy that the forest bureaucracy, post-Independence, embraced with gusto. Large public sector projects and acquisitions for these development projects, built on this history of dispossession, to complete the picture. To set up Hindustan Aeronautics Limited factory in Kodigaon in 1963, (and an arms factory in the area, as well as the Kolib dam in the vicinity), large tracts of tribal land were acquired, resulting in large-scale displacement. Rehabilitation has still not been provided to victims, and only small compensation amount granted.<sup>6</sup> Similarly, Beheraguda was affected, once NALCO acquired large land in 1981, affecting 53 villages. These acquisitions and resultant displacement, resulted in the new pressures on land in villages still left out, and that we saw in our study.

How have laws worked in Orissa? The main instruments preventing tribal land alienation in the state are Orissa Land reform (OLR) Act, 1960 for the non-scheduled

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<sup>6</sup> Rs 2 lacs or so for 25 families displaced (total 615 acres) from the village, of the total 10 villages due to HAL

areas and Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation (OSATIP), 1956, for the scheduled areas. Both prohibit transfer of land to non-tribals except with the permission of competent authorities. Section 23 and 23A of OLR Act provide for restoration of land to Scheduled Castes and Scheduled Tribes if due procedure of such transfers are not followed. Two other important laws are Orissa Government Land Settlement Act, (OLG) 1962, and the Orissa Prevention of Land Encroachment Act, 1972. Further, Orissa is among the few states that has actually taken action to bring its relevant laws in sync with PESA and rules and guidelines have been framed. Despite this strong showing on laws actual action on prevention of alienation, and specifically restoration of alienated land, was found to be poor. Some of this about weaknesses of the law itself - PESA as adopted in the state excludes municipalities from its ambit (empowering Panchayats and Gram Sabhas), thus, the study found land transactions in Koraput being made easily, in municipality areas. There are also conflicts between OSATIP and OGL, former authorising Gram Sabha for land restoration, while the latter deems collector as the competent authority.

But the main failures are really about the lack of enforcement of the laws, and the collusion between revenue bureaucracy and brokers, working on behalf of powerful vested interests, resulting in adivasi being cheated and denied their rights. Koraput and neighbouring Sundargarh have been sites of large protest movements –in our study, we did not find evidence that these had resulted in any generalised increase in enforcement of land laws and accountability of officials. In any case, most of these campaigns are directed at large acquisitions and project displacements.

**h.** Udaipur was the site of the study's research in **Rajasthan**(49.71 % ST population, 2011 census). Of the two villages, Kodiyat A, that was more connected to markets and thus mainstreamed, has experienced significant land alienation, with tribal land holding accounting (based on land records) for only for 30% of the village land. (PLS shows its even lower at 20%). In Kodiyat B's case (located in the interiors,) that figure is still 80-90%. This itself is a significant finding. Tourism, in this case, is a major push factor, with large push by land and tourism lobby, for acquiring land for resorts and hostels. The route to this push is legal, but also significantly illegal, with all working in tandem to make use of provisions in the law to convert land from agriculture to non-agriculture use, so as to facilitate transactions legally, even though the basis of the conversion, may be illegal. Cheating and fraud, by revenue officials, working in league with brokers, is common, persuading adivasis to give land away. Where that doesn't not work, force and

pressure comes in handy. Benami transactions, with adivasis acting as front for deals that really involve non-adivasi outsiders - are common. The fact that adivasis themselves live on the edge of subsistence – starvation like conditions is common, and there is little hope for future - and indebtedness is high, means the pressures often works easily. Villagers we spoke to expressed fear that the processes that worked to alienate them of land in Kodiyat A, are also working relentlessly in Kodiyat B, with brokers making inroads there too.

Rajasthan Tenancy Act, 1955, prevents sale of land. Transfer of land to non-tribals or sale is prohibited, and leasing out or subletting the whole land of a tribal is also not allowed. In case there is infringement on tribal land, under section 183B of the Act, revenue officials are empowered to resolve the issue, and restore land to the adivasi landowner. Rajasthan has also tried to align its laws with PESA 1996. The Rajasthan Panchayat Act of 1999 was formulated keeping provisions of PESA in mind, though it was passed only in 2011. And yet, these laws have not helped counter the tide of alienation. Part of the problem is the poor implementation, and weak enforcement, in part due to the vested interests of the enforcers themselves. To stop illegal transfers, the government in 1988 released a notification to attach photographs of both buyer and seller to the land trader documents, however, the presence of both the parties in the registrar's office is still not mandatory. In our interviews, we were told how patwari and land revenue staff never visited villages, to check reality on the ground, and patwaris themselves being part of the nexus with brokers and big business pushing for land transfers. To stop illegal transfers, state government, in 1988, issued a notification to attach photographs of both buyer and seller to the land transfer documents, however, the presence of both the parties at the time of registration of the deed, in Registrar's office, is still not mandatory, facilitating wide widespread perjury.

But a significant problem, in Rajasthan, seems to be the legal framework itself. Coming in the way of these protective laws, are other state laws – there is, for eg. no restriction on tribal selling land to a non-tribal if he first converts the land to commercial or residential purposes. Also the government, by law, allows hundreds of acres of common land to be converted for bio fuel industry. It also allows wasteland to be leased out to private or government enterprises for upto 20 years and no limits are put on the extent of land the individual or enterprise can hold. The Tourism Policy of 2007 also ensures that star categories of hotels and heritage hotels are extended help by the government in allotment of land. And a new Township Policy in 2007, offers exemption for hotels from fees for conversion of agricultural land to non-agricultural purposes. A new law in 1992

also allows transfer of tribal land from agricultural to non-agricultural usage, for residential, commercial, industrial or industrial area, salt manufacturing or public utility, after which the same land is free to be sold to a tribal or a non-tribal. In the absence of a strong adivasi movement, these laws, undercut the protection, even if just on paper, provided by the Rajasthan Tenancy Act, 1955 and PESA, 1996.

### **1.6. Conclusion**

This survey of the extent, the causes, routes and processes of “non development-induced” adivasi land alienation, drawing on detailed field work in all major scheduled 5 states, as well as that in one schedule 6 state, provides some clear findings:

#### **Extent**

The extent of land alienation, across states, is significant, with adivasis, in most research sites, having become minority landowners in their own habitats, within a generation. This phenomenon on ‘individual’ alienation, it is clear from our field research at multiple sites, is not something that has ended, having been overtaken by development-induced land alienation, involving large projects. Actually, as the Chattisgarh and Orissa cases show, the latter (development induced) actually further facilitates the former (individual), the two existing side by side in many locations. Even where there are no large projects to ‘acquire for public purposes’ large tracts of land, the push of large private projects – housing, hotels and resorts, plantations - means the pressure on adivasis to part with their land, individually, is always strong.

It is difficult, based on our qualitative research design, to rate states on a scale of performance (best to worst on land alienation), but the fact that we conducted detailed research in two proximate villages in each state, allowed us to set up something like a comparative study. Although selection of these two villages was not made ‘choosing on the dependent variable’, rather, on a combination of location of the village (one interior, one mainstream) and partner access as well as other practical consideration, it turned out, that most pairs of villages had divergent outcomes - one of them had high levels of alienation, the other relatively low. Analysing findings on each, suggest the outcome was the result, in most cases of either their interior / remote location, or the influence of tribal education and mobilization against land alienation. This is a provisional research finding that needs to be further explored, perhaps through setting up more robust comparative studies.

An associate findings is that about land records maintenance in the state. All across the states, we came across examples of poor conduct of surveys, poor land records maintenance, and poor updating and maintenance. Fact that access to records are still in the hands of the revenue bureaucracy, who also still enjoy discretion in how they manipulate those, often in connivance with actors with vested interest in land, means the system is completed broken, and contributes to the stealing of tribal land. In any case, most states do not use a standard template for recording land records, many do not record caste ad community, thus preventing, as we anyway noticed in our state research, the opportunity to effectively document and track tribal land alienation. The poor quality of land records we had access, acted significantly to our poor ability to get a handle on the 'extent' question of our study. (Refer **Annex 2** on our summary of findings on working and maintenance of land records across states)

## Process

Analysis of the drivers, routes and processes of alienation, at different sites, present some common themes. There seem to be a combination of 'push' and 'pull' factors at play, facilitating land alienation, the former, pushing adivasis towards greater loss of their land, mostly extraneous, in nature. Some of these, we noticed in our study, were market forces (commoditization and demand of land, availability of credit, and consumer goods), that create the enabling condition for land alienation, what we saw working in villages close to market towns and near highways, where land alienation had already started to have an impact. The weak or hostile legal framework for tribal land rights – with multiple laws, many provisions, working effectively to open the floodgates to alienation, and some laws working at cross purpose to the core preventive and restorative laws - and an administrative system, that is apathetic at best, hostile at worst, with deep interests in collusive nexus with brokers and others with interests in acquiring land on the cheap.

The latter, 'pull' factors, induce adivasis, making them vulnerable, resulting in the loss. These are on most part, inherent to adivasi condition. Poverty is the prime that in a monetized economy is about poverty of cash – for variety of needs, including food, health emergencies, social obligations among others - resulting in adivasis getting locked in indebtedness, that willy nilly ends in their losing land to the moneylender. There are others too - poor awareness about laws and their rights, as well as awareness about how the land revenue system works, and how to negotiate the convoluted land records, and revenue courts system, all of which works to their disadvantage, given those with eyes on

their land are better aware. Other pull factors include poor tribal organization - with tribal social capital having broken down, and only weak tribal organisations or organizations working for adivasis being there, to support adivasis make sense of the changing world around them, articulate their demands, and negotiate for their interests. Across states and varying contexts, we noticed, the two sets of push and pull factors, working in toxic ways, to rob adivasis, of their land. (Refer **Annex 3**, for a detailed state-wise listing of the 'push' and 'pull' factors at work)

### **Laws and their working**

Categorising the enabling conditions into these two groups, is helpful, also to be able to find solutions to the crisis. The response to tribal land alienation has mostly taken the shape of laws to prevent sale and transfer of tribal land, or to make the process difficult, with the revenue bureaucracy – Collectors, SDOs and the like - empowered to police the process, and enforce the laws, in adivasi interest. This is the core principle behind the series of state laws that prohibit or make transfer conditional on the applicant satisfying a number of conditions, to the satisfaction of Collectors and SDOs. But poor results led, as we saw in our examination, to individual states adopting measures to restore alienated land - thus seeking to undo failures of enforcement of the laws enacted earlier. But these laws too relied on the revenue bureaucracy – the same Collectors and SDOs, and the network of revenue officials (*patwaris, talati...*) that they must depend on, for monitoring and reporting whether any alienation has taken place, conducting enquiries, and overturning it where a violation is proved. All this assumes that the interests of the revenue bureaucracy are aligned with that of the adivasi whose land is on the verge of alienation, and that the former have no personal interests of their own. We know, however, from empirical evidence that, the revenue bureaucracy is a power base unto itself, and has deep collusive relationship, with those that seek to acquire tribal land. Further empowering the same structure, in an effort to protect adivasi interests, is barking up the wrong tree, then. Poor traction on these laws was but built into the laws themselves – official records of land restoration cases, and their poor performance for adivasis, prove the point. (Refer **Annex 4**, on a detailed state-wise listing of the relevant laws, and their working)

## Fifth Schedule vs. Sixth Schedule provisions<sup>7</sup>

Here let's look at the vision of tribal governance that provides the framework for these laws and codes, encapsulated in the 5<sup>th</sup> schedule of the constitution. The objective behind this special provision applicable in 'scheduled areas' in the constitution – those with large tribal concentrations in central India, and declared as such by the central government - being to provide a protective environment (exclusion of some laws seen to be detrimental, and application of others beneficial) for their adivasi populations under threat from the large influx of outsiders, seeking to overwhelm tribal way of life. The linchpin of the 5<sup>th</sup> schedule is the role it provides the state governor – unprecedented power to limit or modify the application of any national or state law in scheduled areas; and regulate peace and good government there. It specifically empowers them to act to prevent tribal land alienation, and regulate money-lending. The only limitation to this wide authority Governors enjoy, is the requirement for them to *consult* the Tribal Advisory Council before making such regulations - a body only indirectly representative of tribal interest.

The primacy of the Governor, and through him the Central Government, in the lives of adivasis in Fifth Schedule areas is further underlined by the fact that the Governor reports to the Union, through annual reports, on administration of those areas, and the Union has powers to direct states on the matter. Completing this picture of a (top down) centralised bureaucratic structure of tribal administration is the extension of state's executive powers in scheduled areas. There is enough evidence now that the top-down bureaucratic design has failed to deliver. A recent media report titled 'Governors' failure spans 60 years' brought to light the fact that Governor's power under Fifth Schedule has been used only once.<sup>8</sup> Other reports talk of governors reports to the president, being made only in exception, and when done, not taken seriously. As is clear from our own study, the institution of state Governors has failed to rise to the expectations of constitution framers, to act as benevolent protectors of tribal interests – adivasis in scheduled areas, continue to lose land and traditional rights unhindered, with no authority of governors exerted to stem the tide.

The design and working of laws and codes to prevent tribal land alienation in Fifth Schedule areas – and their reliance on Collectors and SDOs for their enforcement - reflect the same top-down paternalistic values that defined the governor's role in Fifth

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<sup>7</sup> This and the following sections, adapted from Hassan (2014)

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Schedule of the constitution. The failures are remarkable mirror images too. The conservatism of the Fifth Schedule is a far cry from the self-rule provisions of Sixth Schedule of the constitution –designed with similar intentions, for adivasis in northeastern India - and explains the dramatically divergent outcomes for adivasis in the two pockets of tribal habitation in the country.

Sixth Schedule of the Constitution applies to states of Mizoram, Tripura, Meghalaya and tribal districts of Assam. It divides tribes in the region into autonomous districts and regions, for specific tribes, with members elected directly. The elected councils have considerable autonomy, (i) to make laws with respect to a variety of subjects(ranging from prevention of alienation of land, to allotment, occupation and use of land for agricultural and other purposes; regulation of money-lending, and social customs - inheritance of property and appointment of village chiefs, among others); (ii) exercise judicial authority (constitute village councils and courts to try suits and cases involving adivasis within the area, and for which the courts exercise powers under CPC and CrPC); and carry out a range of executive functions – from establishing and managing primary schools to waterways and roads. The Sixth Schedule thus embodies a concept of autonomy that includes constitutionally specified legislative and judicial subjects exclusively the domain of the (tribal) local government, the limitation of the state's executive authority, and financial independence of local governments. Central to Sixth Schedule then, is property rights for adivasis in Scheduled areas – and the limited authority of the state there. This allows for land, for instance, to be owned by local communities, rather than the state, and District Councils – that are representative bodies of adivasis - the authority to decide how forests (with some exceptions) will be used, to what purposes.

### **Tripura - as the counter-factual**

Our own foray into West Tripura district, where Sixth Schedule of the constitution is applicable, demonstrates how the agency of adivasis is encouraged, rather than stymied, as in Fifth Schedule. The specific political history of Tripura, local factors particularly the role of a cadre-based party in command of the state for a considerable period of this history, and other contextual factors that influenced the manner in which Sixth schedule has been implemented in the state, means that many enabling provisions of Sixth Schedule have been diluted in precept and practice. Yet, it is clear from the evidence we have gathered on land alienation, that adivasis have a significant role in its working. Section 187 of Tripura Land Reforms and Land Revenue Act 1960 (TLR & LR Act 1960),

provides safeguards against tribal land alienation. A key condition is the requirement by revenue authorities “to obtain the recommendations of the District Tribal Advisory Committee in all cases of transfer of tribal land”.

While the substitution of legal rights to property right elsewhere, with fundamental right for tribal communities in Sixth Schedule areas, still allows the state to acquire tribal land and property, and pay just compensation, it significantly alters the balance of power between state and tribal local communities – resulting in police powers of the state being severely curtailed. (Kurup, 2008: 117). Seen in the context of the role of land alienation, and especially development induced displacement and their impact on adivasis in Fifth Schedule areas, this is significant gain for adivasis in North East region.

### **PESA, 1996**

Panchayati Raj (Extension in Scheduled Areas) Act, 2006 was the first attempt at decentralisation in Fifth Schedule areas. It mandated devolution of certain political, administrative and fiscal powers to local governments elected by local communities, while attempting to protect tribal social customs and common property management practices. It has therefore been billed the logical extension to Fifth Schedule. (Planning Commission 2006: 84). But a closer look at the law, and its implementation proves, it is really half- hearted decentralisation. Rather than putting tribal communities in the drivers seats, so to speak, to negotiate issues affecting their life and wellbeing, PESA only asks State Government to consult, involve and obtain recommendations, as the case may be, from local communities, rather than empower the communities themselves to take decisions.

The fact that PESA defines village very loosely with little attempt to empower voices of tribal communities in Gram Sabhas - in a context where Fifth Scheduled areas have, over the years, been inundated with non-tribal settlers - further erodes any empowering potential that PESA might have had. Driving a nail in PESA's coffin is the reliance in the act, on States to empower Gram Sabhas, as effective tribal self-governance institutions – to take greater control over economic opportunities such as minor forest produce and developmental planning processes, as well as to regulate and contain destructive trends – enforcing prohibition, preventing land alienation and controlling money-lending. We have seen in our own research in all schedule 5 states, how states have been loathe to do this in the spirit of PESA. Observers have noted how 'after a decade, it is apparent that PESA is not clearly achieving (that) objective. Our research confirms this assessment.

## Creating tribal agency, from the bottom-up

The findings of our research seem to suggest that laws, however well-meaning and sophisticated – especially given the adverse context, as outlined above - can at best be a necessary condition for preventing land alienation, never sufficient. And that, perhaps the laws need to be seen together with education, organization and mobilization by and of adivasis, around land and other rights, as a package of interventions to direct at protecting adivasi rights on land. This missing link – of adivasi empowerment - needs to be squared in public policy debate, for the range of laws and state codes to have any chance of delivering on their promise. Examples from Palghar in Maharashtra, where Bhoomi Sena, now Adivasi Ekta Parishad, an adivasi CSO, working for many years, and in Dharamjaigarh block of Raipur district (in Chattisgarh), where it is Ekta Parishad that is showing the way, are encouraging. Similar potentials exist in other locations, such as in Latehar district of Jharkhand,

Adivasi Ekta Parishad's case is educative. It has had a long history of struggles in the area, and in Dhamkhind - the village with no land alienation - campaigns, and court cases, grassroots mobilization, and success. These struggles, for land and forest rights, and various campaigns taken up, have mobilized adivasis, creating awareness, and the support network to allow them to fight for their rights over land. Struggles for land and forests, are not easy. There has been push back against AEP activists – false cases against many members – but the strength of the movement, means that the sangathan is able to fight back, and in the process further create awareness, about land, laws and rights. (Refer **Annex 5**, for state-wise catalogue of awareness and organization by adivasi groups).

## Recommendations <sup>9</sup>

In these concluding paragraphs, I will try to draw the outlines of a reform agenda for adivasis, focusing on changes in Fifth Schedule areas – limiting myself to identifying the markers of such an agenda, to be further development subsequently into concrete ideas. Given that it is tribal 'empowerment' and 'agency' that informs these proposed reforms, the scope of the recommendations is wider than just 'individual' land alienation, and also covers those against development-induced alienation, and tribal empowerment

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<sup>9</sup> This section draws heavily from Hassan (2014), adapted to the present subject.

generally. Some of these reforms have already been proposed earlier, and in those cases, besides acknowledging the source, I develop the ideas further.

### **For central government**

Central here is the need to replace the decentralising ethos of Fifth Schedule provisions, including of the changes proposed under PESA 2006, with real self-rule for adivasis. This would require amending the Fifth Schedule of the Constitution. What is to be put in its place, is moot. One option is to replace that with Sixth Schedule. Opponents of the idea would point to existence now, of many and varied communities, including non-tribal, in scheduled areas. But Sixth Schedule itself provides solutions to that practical problem, in the Regional Councils it envisions, to protect interests of minority communities. As for non-tribals, it should be possible to give authority to tribal councils while ensuring that power is exercised without prejudice to the rights of non-tribals living there, and that they continue to enjoy their rights and privileges as equal citizens. The alternative would be to amend PESA 2006, and require states to work from the bottom, taking the tribal hamlet as the unit of habitation, empowering them with real judicial and executive powers, over land use and allotment, and management of forest and exploitation of mineral and other resources, besides social customs, plans and budgets. These tribal villages should link up to District Tribal Councils, which, as with Sixth Schedule provisions, would have legislative authority over land and forest, customary laws and a range of cultural and developmental issues. Alongside, and borrowing from the Manipur Legislative Assembly (Hill Areas Committee) Order 1972, a Tribal (or Scheduled) Areas Committee at state level ought to be created, made up of tribal members of state assemblies, with powers to advise the state legislature over all matters pertaining to scheduled areas of the state – including allotment and management of land and forests, besides economic planning and development, and constitution and powers of District Councils and Gram Panchayats, social customs and public health, among others. Unlike the Tribal Advisory Councils under the Fifth Schedule, these Committees would not be creatures of Governors, rather they would exercise statutory authority, to safeguard the interests of adivasis.

Together, these reforms will create, at the critical district and hamlet/village levels, enabling and popularly elected institutions of tribal self-government, that when tied in with the state level tribal advisory committee, should enable traction within government, at all levels, around tribal issues and agenda. Greater autonomy, will, besides ensuring greater local control over resources and opportunities, as against consultation or

recommendation under PESA, also transform the political landscape in current Fifth Schedule areas, through creating a cadre of tribal leaders at state and district levels, with ownership of issues critical to adivasis – giving a fillip to tribal organisation and voice. Alongside, what is required is a reform of institutions and their governance, to enable greater access of adivasis to livelihoods and opportunities. Key here will be securing property rights for adivasis – to undo the disadvantages faced by them in forest laws, and land use and land acquisition laws. The Saxena committee report on bauxite mining in Niyamgiri forest in Orissa, shows how this could be affected. (Saxena et al, 2010: 86). Findings of the report demonstrate how, in the competing claims between forest-dwellers and business, it is the latter that the state mostly favours, in violation of all due process. In this case, Orissa state government and relevant district authorities discouraged and denied the claims of Kondh PTG villagers, in clear violation of the provisions of FRA 2006, to divert forest land for non-forest purposes, in order to favour the Vedanta-owned Orissa Mining Company. The Saxena Committee, asked, as redress, for three conditions to be met before allowing transfer of the forest land: (i) completion of the process of recognition of rights under the FRA, 2006 (ii) *consent* of the Kondhs to the diversion, (iii) and Gram Sabha of the area concerned (of the particular Kondh hamlet) certifying both above.

Kurup argues how substituting ‘consent’ for ‘consultation’, changes the power equation between adivasis and the state, without coming in the way of development. (2008: 117). State will still be able to acquire private land for public purpose, but to be able to do that, it would need to negotiate and get the owner of the land – who would have fundamental, not mere legal right to the property - to agree to a just compensation, rather than be able to fudge the consultation, or force it down. While FRA 2006 provides the framework to undo past mistakes, and gives adivasis their due rights over resources, much of the ambitions embedded in the act rely on impartial and sympathetic handling by state officials. And these are not commonplace.

### **For State governments.**

- Strengthen laws, remove loopholes, and align laws that contradict preventive and restorative provisions. State-wise recommendations are at Annex 6.
- improve implementation of laws, invest in better processes and technologies, and management and monitoring

- train and capacity build revenue and tribal bureaucracy, especially at frontline, on laws and guides
- set up grievance redressal mechanisms, against poor implementation of laws and violations of rights, and encourage speedy redressal. Push accountability of frontline and managerial staff
- Improve land record management, through better surveys, better recording, maintenance and updation of records, and better access of data for the public.

(Refer **Annex 6** for detailed state-wise recommendations on strengthening state laws)

### **For civil society**

- These above elements of the reform agenda, address the weaknesses of the legal framework. The third element of the reform agenda is strengthening civil society among adivasis, and a push to social mobilisation, to create tribal ‘agency’ and ‘voice’, as an attempt also to address issues of poor enforcement of existing laws, with tribal development bureaucracy captured by anti-adivasi interests. In the absence of adivasis as agents of their own change, all the various opportunities – social, economic and political - already in place or those proposed, will remain largely unrealised. We saw how in the case of 5<sup>th</sup> schedule legislations against land alienation, absence of voice and organisation means public institutions have little incentive to be accountable, and adivasis themselves have little role in monitoring and enforcing the provisions. The example of Adivasi Ekta Parishad, an organization of adivasis, organizing and educating adivasis in Palghat district, on land rights, and leading resistance to land grab, and as a result of these measures, being able to slow down alienation, is a hopeful one. This is something that other actors could learn from.
- Equally important it is for civil society to monitor, document and track the working of laws and provisions for land alienation and tribal wellbeing generally, as well as the implications of poor working of these, on the lives of and life chances for adivasis. And through use of popular media, bring it to the notice of the layman.
- Engender public discussions and debate on the issue, and raise the profile of the issue.

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# **Chapter 1**

## **Chhattisgarh**

## Introduction.

Chhattisgarh, a young state born in the year 2000, has 30.6 percent Scheduled tribes population, according to the 2011 census (a drop from 31.8 percent in 2001). The tribal population in Chhattisgarh is mostly concentrated in Bastar, Raigarh, Jashpur, Surguja, Koreya, Balrampur, Korba, Kanker, Dhamtari, Janjgir-Champa, Bilaspur, Mungeli, Kabirdham, Mahasamund districts.<sup>10</sup> A PIB document sums up:“A predominantly tribal State endowed with rich mineral and forest wealth, Chhattisgarh has about 35 big and small tribes inhabiting the State.”<sup>11</sup>

Chhattisgarh ranks eighth in terms of tribal population, and is the only state to see a decline in tribal population percentage over the last one decade.

In Chhattisgarh, the district selected for the study was Raigarh, and this is also where the pilot study for the project was conducted, in Barpali village. The team set out to look into the impact of large-scale mining in the district. This district was selected because of its low level of development, the presence of local partners in the area and relatively lower focus on land-related issues there in the contemporary literature. Much of the writing on Chhattisgarh speaks of districts like Bastar which have been affected by the Maoist movement. But the selection of Raigarh is intended to bring out the issues faced due to mining in the district, and focus on the political struggles of the people in the area.

The choice of the block Dharamjaigarh was endorsed by the local partners and the District Collector since very little research has been done on the area. The Collector was in fact keen on the report as he believed some intervention was possible based on the fact finding. The reason for the selection of the block largely depended on the local partner’s experience of land alienation in the area, their work, and familiarity with the villages.

### 1.1 Raigarh district

Lying in the eastern part of the state, this district is rich in mineral resources and famous for its Kosa silk. Raigarh district in general, and Dharamjaigarh block in particular, have multiple coal blocks. Raigarh ranks 10<sup>th</sup> among the 16 districts in Chhattisgarh according to the Human Development Index. Though in the education index it ranks third, it ranks

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<sup>10</sup> Kispotta,, D. S. (2014). A Socio-Economic miserable condition of the tribals in Chhattisgarh (A case study of Dhanwar, Surguja district, C.G.). *IOSRJMCE IOSR Journal of Mechanical and Civil Engineering*, 19(6), 26-29. Retrieved June, 2014, from <http://iosrjournals.org/iosr-jhss/papers/Vol19-issue6/Version-1/D019612629.pdf>

<sup>11</sup> CHHATTISGARH : THE 26TH STATE OF INDIA. (n.d.). Retrieved from <http://pib.nic.in/feature/feyr2001/fjun2001/f080620012.html>

tenth on both health and income indices. The 10 villages in Chhattisgarh were selected on the basis of random selection from the Census data. The only controlling factors for the villages selected were:

- a. They were independent revenue villages even in 1950, so that land records are available for all the years. However it is possible and probable that one or more revenue villages have been carved out of the original one over the years.
- b. The household size lies between 75 and 200 to make it feasible to process the data and analyse it.

## 2. Extent of land alienation

### 2.1 Land Records

Alienation is noticed here in four villages: Durgapur, Fatehpur, Sohanpur and Bokalo. In the other villages, tribal ownership of land has even increased over the years. Out of the four villages in which substantial alienation has occurred, Durgapur and Fatehpur were selected purposively for in-depth study to analyze the processes of alienation.

**Table 1: Extent of land alienation in Adukala**

	1950	1980	2014
<b>Tribal</b>	41	62	60
<b>Non Tribal</b>	40	29	40
<b>Unclear</b>	19	9	

**Table 2: Extent of land alienation in Amapali**

	1950	1980	2014
<b>Tribal</b>	57	35	76
<b>Non Tribal</b>	43	28	7
<b>Unclear</b>		37	16

**Table 3: Extent of land alienation in Bhojpur**

	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Tribal</b>	70	97	85
<b>Non Tribal</b>	16	3	6
<b>Unclear</b>	13		9

**Table 4: Extent of land alienation in Bokalo**

	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Tribal</b>	96	98	89
<b>Non Tribal</b>	4	2	7
<b>Unclear</b>			4

**Table 5: Extent of land alienation in Chainpur**

	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Tribal</b>	99	100	100
<b>Non Tribal</b>	1	0	0
<b>Unclear</b>			

**Table 6: Extent of land alienation in Durgapur**

	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Tribal</b>	100	100	96
<b>Non Tribal</b>	0	0	4
<b>Unclear</b>			

**Table 7: Extent of land alienation in Fatehpur**

	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Tribal</b>	100	64	74
<b>Non Tribal</b>		36	26
<b>Unclear</b>			

**Table 8: Extent of land alienation in Sohanpur**

	<b>1980</b>	<b>1990</b>	<b>2014</b>
<b>Tribal</b>	60	69	54
<b>Non Tribal</b>	40	31	46
<b>Unclear</b>			

The two villages selected were not close to urban areas and it was interesting to map the processes of land alienation in these areas majorly linked to larger land acquisition process. Both Durgapur and Fatehpur had been earmarked for mining with projects by DB Power and Balco, and official gazettes for acquiring was expected. Though clearances had not been finalised, land prices had shot up in expectation of the acquisition. Therefore, the two villages were in similar circumstances, experiencing significant land alienation due to coal mining. The study was conducted here expecting that the larger process of acquisition of land would not just affect the land parcels to be acquired for mining, but also lead to a ripple effect of further individual alienation as a result. Both Durgapur and Fatehpur stood testimony to such process.

## 2.2 Participatory Land Survey

The extent of land alienation in Durgapur is clearer from the PLS data. In Durgapur, according to the present land records, the non-tribal ownership of land was only 4 percent in 2014. However, the participatory land survey in the village told a different

story of land possession. Only 75.2 percent of the land was held by adivasis in the village. Even the number of adivasis who had possession or hold over the land, when further scrutinized, revealed that adivasis from Durgapur actually held only 63.1 percent of the land. (Table 9, below) The rest of the land was possessed by people from outside the area and villagers had no idea to whom they had sold their land. Transactions might have occurred through brokers, and the owner of the land only knew that the land had been bought by someone from the outside. Since it is unlikely that a tribal could actually afford to buy land or would buy land parcels outside his area of habitation, this suggests the use of *benami* transfers as well. This percentage of land, in which the land has been already bought but the villagers have no idea who the buyer is, has been marked as '*BahariKabza*' (outsider controlled).

**Table 9: Possession of Land in Durgapur, as found in PLS (2015)**

Land holding pattern	Percentage
<b>Tribal holding</b>	63.1%
<b>BahariKabza</b>	22.1%
<b>Non tribal holding</b>	9.4%
<b>Not found/marked</b>	5.3%
<b>Total</b>	100%

In Fatehpur, the tribal possession of land has been observed as 65.2 per cent as against 74 percent tribal ownership as per the present land records. It is necessary to understand that there are cases where the land is already owned by a non-tribal, but possession is with a tribal. In such cases, the participatory survey will show the land to be possessed by a tribal. On the other hand, there could be cases where possession is with an outsider while the ownership is still with the tribal, though such a case is unlikely. The non-tribal holding in Fatehpur is at 13.1 per cent much below the 26 per cent suggested by the land records. This suggests that much of the gap will be part of the '*Bahari Kabza*', which stands at 13.6 per cent, and portions of it could be also among the parcels not marked in the survey. Few land parcels were not marked because neither the owner or the possessor of the land was present at the PLS, nor could the other villagers definitively mention the use of the land.

**Table 10: Possession of Land in Fatehpur, as found in PLS (2015)**

Land holding pattern	Percentage
<b>Tribal holding</b>	65.2%
<b>BahariKabza</b>	13.6%
<b>Non tribal holding</b>	13.1%
<b>Not found/marked</b>	8.1%
<b>Total</b>	100

Both the surveys and the land records of Durgapur and Fatehpur confirm substantial alienation, both on the records as well as in possession.

### 3. Processes of Land Alienation

#### 3.1 Understanding land alienation in Durgapur

The present processes of land alienation in the village of Durgapur have to be understood against the background of its demographics. The area is not just inhabited by adivasis but also by Bangladeshi immigrants who were settled by the Indian government after Independence. The government had decided to allocate seven acres to each immigrant household who came in the 1950s. This was followed by another allocation of five acres each to the group of immigrants who arrived after the Bangladesh War in 1971. The beneficiaries brought with them better agricultural techniques and eventually led to high agricultural production.

But the change in the demographics pitted the immigrants against the adivasis, both of whom were now aiming to control the same resources available to them.

In fact according to some villagers, the village was named Durgapur by the Bangladeshi immigrants as they were worshippers of Goddess Durga.

It is believed by the local village elders that a Rajput ruler had gifted this forest area to the Adivasi ruler. Adivasis had full autonomy over land and forests and the rulers of the plains would not interfere in their affairs. They would only visit the forest for hunting once in a while, in which they would be assisted by the local Adivasis.

Community land ownership was introduced in the area only after the British came and survey and settlement of land records were carried out. After Independence, forests were cut down to allocate land to the refugees. The refugees shared a strong bond resulting from their shared history of deprivation and struggle in East Bengal (now Bangladesh). One of the elders in the village said,

“We were together fighting against domination of West-Pakistan and for freedom of Bengalis. The idea was to create a free nation of Bengali people. Later we became Hindus. Bengali people fighting together for an independent Bangladesh became Hindu Bengali and Muslim Bengalis...these people (Muslim majority) treated us worse than enemy and we were made foreigners in our own land. We (Hindus) lived in constant fear...As the oppression and violence increased we had to run away to save our lives... Indian governed came to our help and we were shifted in relief camps in West Bengal. But the division did not stop there. We were all Hindus in Bangladesh and also after reaching India were Bengali Hindus. But after reaching India we became Namoshudras. The upper caste Bengali Refugees were allotted land in Bengal and we were send to this alien land in the middle of the *jungli* people (Adivasis) and the forests.”<sup>13</sup>

Durgapur is a prime example of graded inequality, with one oppressed group pitted against the other for survival. The Bengali population slowly gained control over the resources and brought in methods of cultivation that would produce superior quality and quantity of rice. With years passing, mining and industrialisation brought the Adivasis closer to the market and commodities like bikes, cell phones, etc. Much of the land alienation today has to be seen in the context of the market and the availability of consumer goods that the Adivasi youth wants to afford. Sale or mortgage in order to be able to afford a consumer good like a motorbike is common in Chhattisgarh.

**Table 11: Details of land lost in Durgapur**

Land lost to whom	Number of individuals
Bank	<b>1</b>
Non Tribal	<b>18</b>
Tribal	<b>5</b>

<sup>13</sup> Anonymous. 18 November, 2014. Durgapur, Raigarh district

Dont know	<b>8</b>
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The extent of the loss of land also comes out strongly in the household survey, where it was revealed that at least 25 percent of households in the village had been alienated from their land. Around half of the people who had been alienated, had sold their land.

In Durgapur village, households belonged to 15 different castes (Jaati) but only 3 major castes actually lost land the most. These castes are Kanwar (13), Garha (3) and Rathiya (9).

In the survey, when asked about “how” the adivasis had lost their land, most of them (84% of those who had lost their land) said they had either sold it or mortgaged it, eventually losing the land permanently.

**Table 12: Reasons for land alienation in Durgapur**

<b>Reasons for alienation</b>	<b>Number of individuals</b>
Daily expenses	12
Agricultural expenses	1
Social functions	3
Health related expenses	2
NA	2
No response	1
Last rites of family members	1
Violence	3

The reasons were also telling. A case in point was the story told by an old Adivasi who was also the Sarpanch in Durgapur. He said one poor Adivasi had sold half his land to buy a car. Since he didn't know how to drive a car he hired a Bengali Driver who asked

for an amount of Rs. 15000/ month to drive and maintain the car. The Bengali driver eventually managed to manipulate the adivasi by asking for more and more money for petrol and maintenance. Today, the driver has bought the car and rest of the land of the adivasi who failed to pay the dues.

The Sarpanch<sup>14</sup> shared how the companies who are eyeing Adivasi land colluded with a motor company that offered a scheme of free bikes to the Adivasis. Adivasi youth fell for this and bought bikes. The bikes were later taken back by the company as the dues were not paid. Now the company which was eyeing the land offered the Adivasi youth help in getting them their bikes back, for which they would have to sell their land to the company.

So the alienation now happens at two levels. One, the Bengali immigrants who have turned out as “superior” to the adivasis in terms of their knowledge of production, ability to produce and also interact with the market forces, have overpowered the adivasis in a bid for limited resources in the area. Two, as the local people explained, the companies that want to purchase land in the area for production purposes then use the Bengali population as brokers to get land transfer deals sealed. A few adivasis also act as brokers in the area, but their numbers are much lower compared to the Bengali brokers, as the researchers found out.

Sukhiram Rathiya<sup>15</sup> has been living in the village of Durgapur for three generations now. His grandparents had cut forests to settle down in the area. His parents had 25.13 acres of land, which was divided between the four brothers after their death. Sukhiram lost 2 acres of land when the flooding of the river had deposited too much sand and stones on the land, making it uncultivable. Many villagers had approached the Tehsildar to change the land records so that they would not have to pay tax for the uncultivable land, but the Tehsildar did not agree. The non-tribals collect this “Valu” and sell it, but the adivasis cannot use it, since they live in kachcha houses. So non-tribals gain from the uncultivable land for which the tribal pays the taxes. But Sukhiram said it was better to sell off land now as it would otherwise go to the coal field anyway. On the one hand, it shows the perception of compensation and rehabilitation mechanisms in place when land is acquired for industry, on the other hand, it gives a glimpse into a situation in which land might be forcefully acquired without any compensation for industrial purposes.

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<sup>14</sup> Interview on 20 November 2014. Durgapur, Raigarh,

<sup>15</sup> Sukhiram Rathiya, 20 November 2014. Durgapur, Raigarh district

The household survey shows us that most people who have been alienated from land, had actually sold it. This process of selling has to be evaluated further: even if the procedure is legal, it might not be just.

One case in point was Amarsai Rathiya<sup>16</sup> who lost his 1.5 acres of land in exchange for a motorbike and a bore well. Amarsai was drunk when his son made a deal with the broker of the motorbike and made him sign the necessary papers for it. Amarsai's son had tried for one year to get a loan from a bank for the bike, but to no avail. Finally a Bengali broker agreed to give him a loan of Rs 20,000 and a bore well by keeping the land on lease. Amarsai is still cultivating the land though he knows he might be asked to vacate it any day. He knows his land might be used for industrial purposes later. He said that if the government was not on the side of Jindals, they would not have been able to come and grab land in Dharamjaigarh. So the Jindals get land on the one hand from the government, and on the other hand from the farmers. "Ek taraf se sarkar de rahi hai, ek taraf se kisan."

He said there would be others in the village who have also leased out or sold their land to buy bikes or other expensive consumer goods. He said, "We get things here that you would not even get in Raigarh or Raipur. But we have been habituated into using these, and we are even selling our land to get them."

Apart from this, direct force is also used to capture land. HansaramRathiya, another resident of Durgapur, lost 6 acres of land as a non-tribal man who used to serve in the army had made a boundary wall and built houses on it. The man had claimed that the government had allocated the land to him, and was backed by the Patwari who was present at the time. The Patwari had said he would have to share the land with the armyman, but later he took possession over the land completely.

The survey has also shown cases where land has been sold because people are in need. Amarsai Rathiya's brother had leased out his land for a few thousand rupees for emergency treatment of a family member in hospital. The land had been leased out for 10-15 years and one is not sure if the land would be returned or not.

The role of the lower rungs of the bureaucracy is often stark in land alienation in Scheduled areas. Few villagers had trust in the Patwari and the Tehsildar and believed they were governing with best interests of the villagers in mind. However, Sukhiram Rathiya said the village meetings never discussed land issues. He said, he had never gone

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<sup>16</sup> Interview on 21 November, 2014. Durgapur, Raigarh district

to the Gram Sabha and never heard anyone speaking of land alienation. He added that they believed the Patwari to write everything correctly though they were illiterate.

But as Hansram's case of losing land to the armyman showed, the Patwari was present during the land transfer, and did not intervene against the injustice. One villager had also said that the Patwari and Tehsildar ask for bribes to issue pattas for forest land.

The Patwari of Durgapur, Patnayak,<sup>17</sup> denied the incidents of land alienation in the village. He said it might have happened in the past, but was not happening at present for sure. He was not aware of the population of Durgapur. He said he had heard the company was taking over land in Durgapur village, though he was not sure when it would happen.

He said if anyone wanted to sell land, the buyer and seller had to apply to the Tehsil Office. The Patwari would do a site verification and send a report to the Tehsil. The Tehsildar would ask for certain confirmations from the buyer and seller, and if satisfied, would approve the transaction. After the registry, the case goes to the Panchayat who take the final call of sealing the deal. He said he had no record of how many verifications he had done in the last three years.

It was clear that he was reluctant to speak and was not speaking the whole truth about the system. Even the resolution of cases where transfers had been challenged have not been satisfactory, as the numbers above have shown.

### **Impact of alienation in Durgapur**

The respondents in the village almost shared the view point of the Revenue officer described in Box 1 on the changes between past and present life among the adivasis. They said when their forefathers came and settled in the area, they did not have much to eat and hardly wore any clothes. Conditions improved with agriculture. Janakram Rathiya,<sup>18</sup> an old Adivasi said, that the Adivasis would collect Mahua fruits in the past, and when they did not have enough to eat, they would eat those fruits. Mahua would be

#### **An unforgotten story of Janakram's Grandfather Rathiya**

A government official came in to visit the village from revenue department after Independence. He asked for water. When a tribal for the water, he refused to drink it and said he would drink only from the hands of a Rawat (non-tribal). He had water from a Rawat's pot and asked the "Jungle" people to wear "proper" clothes.

<sup>17</sup> Interview on 21 November, 2014. Durgapur, Chhattisgarh

<sup>18</sup> Interview on 21 November, 2014. Durgapur, Chhattisgarh

used to make liquor only during festivals and not throughout the year asis done now. As one old man during the group discussions said, adivasis were not just farmers. They were mainly dependent on forest produce and hunting, along with subsistence farming. They said they did not have much money like the Bangladeshi immigrants to invest and improve the techniques of agriculture. But if land is taken away from them it will be difficult for them to survive.

The impact of such land alienation was also evident from the case of an SECL employee a little further away from Durgapur whom the researchers met. He said he had given 2 acres of his land to the company and got the job in exchange. He said people could get money or a job, but one needed to have at least 2 acres of land to give for the job. He said if the children do not get educated enough to get a job and fend for themselves, they would not survive, since the land which was the means of subsistence would be gone.

### **3.2 Understanding land alienation in Fatehpur**

The second village, Fatehpur, had seen much bigger alienation of land, with 56% of the respondents saying that land had been alienated to someone, out of which an overwhelming 81% said that they either sold it to someone or mortgaged it. The fear of the outsider was also clear from the fact that they did not trust strangers from outside. The CES researchers were termed in the beginning as “company agents”since they were enquiring about land issues in the village.

The number of households who have lost land in Fatehpur village is much higher at 56%. There are four castes in this village namely, Agariya Lohra, Kanwar, Manjhwar and Oraon. All the caste categories have lost land, with Majhwars being the biggest community losing land.

Similar to Durgapur’s story, 81% people actually said they had sold their land. The major reason for that was to meet daily expenses, and a good one-fifth of the people could not explain how they had lost their land. This does not always mean that the adivasis are uneducated and unaware of their own transactions, but could also be because the transactions were not carried out by the present generation. Only 3% of the respondents actually admit to the use of violence in the procedure of alienation.

**Table No 13: Details of land loss in Fatehpur**

Land lost to whom	Number of individuals
Bank	<b>1</b>
Non Tribal	<b>18</b>
Tribal	<b>5</b>
Dont know	<b>8</b>

When the respondents were asked to whom their land had gone, at least 18 households had lost their land to non-adivasis—a number that is not reflected when one looks at the formal land records. According to the land records, the rise in acreage of land in the hands of non-adivasis is just 3 acres.

In a focus group discussion with the youth of the village<sup>19</sup>, a few men said that the sale of land before and after 2011 have been quite different. In the past, they said, selling land would mostly be due to some emergency, like a medical emergency or for social functions, but mostly remained within the village. However, after the 2011 announcement of a coal mine in the area, non-adivasis and outsiders from Raigarh and Raipur towns have been buying a lot of land. One participant said that land is now mostly sold to the “mafia” and the sellers mostly do not know who the final buyer is. The villagers did not remember when the last survey-settlement had taken place, and said that authorities like the SDO would not tell them the value of the land. As a result, most adivasis got little or no money for the land they were selling.

It was noticed that the authorities had spread the fear that once coal mining began, the government would take away land without proper compensation. Out of fear, most people were ready to sell their land at cheap prices. This is a trend that was noticeable in Durgapur as well.

Om Prakash,<sup>20</sup> a non-tribal resident of Fatehpur, said the Deputy Collector had also come in the past to convince the people to sell their land as the company was offering a “generous amount.” He said, however that “there are few wise men in the village who

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<sup>19</sup> Interview 22 November 2014. Fatehpur, Raigarh district

<sup>20</sup> Interview 21 November 2014. Fatehpur. Raigarh district

also understand law and the way companies function. They will give their life but won't allow alienation of anybody's land." The people protested against the acquisition and also said that it would amount to bombing or killing the people, to take away their land. "People know that if they give up their land they will not have any way of survival. Land for us is like daughter. Once we marry our daughter, the daughter won't come back. She might still come back to visit us but once the land is gone, it's gone forever."

In both villages, the administration was clearly a part of the process of individual alienation. In the household survey, when we asked whose permission was required to transfer land from tribal to non-tribal, most villagers said they would take permission from the Patwari, Sarpanch and Tehsildar. In a group meeting in Fatehpur, when the researchers asked about prevalent laws for the transfer of land, the villagers said that they were aware of the laws, but it did not matter as nobody followed them. One participant said that the land mafia co-operated with the Sarpanch to get land deals sealed. The Sarpanch would not even hold a Gram Sabha, and instead would take consent signatures forcefully to give village land over to mining interests. "The SDO, Sarpanch, all of them run after the company. They are public servants, they should support us. They don't."

A case in point is the story of Sukul Baiga, a tribal living in Fatehpur for three generations now. His family had received *pattas* for 5 acres from the government, and had cut jungle over .57 acres for which he had asked the Patwari to issue *pattas*. He said the Patwari and the Sarpanch had asked for money to issue the *patta*. Sukul said, "I would have paid them, but I don't trust them. I said give me a *patta* and then I will pay. They refused."<sup>21</sup>

Sukul sold one acre out of the 5 acres to a non-tribal from outside the village, through a tribal broker who is a resident of Fatehpur. He said, "The reason they bought my land is that they thought the company will come and pay them a lot of money, and I had no idea about the rate of land at that time. I asked for Rs 50,000 for one acre of land and they said they would give me Rs 35000, but when I sold it to the broker, he began giving the amount in installments. I sold the land because I wanted to fix a tube well in the field for farming, but due to the installment payment I could not fix it."

Only later did Sukul realise that he was cheated in terms of the compensation. The broker also kept all his land documents, which meant he had no proof of ownership of the remaining 4 acres as well.

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<sup>21</sup> Interview 23 November, 2014. Fatehpur, Raigarh

When asked about the experience of the legal procedure of the transfer, he explained that he was taken to the Tehsil office by the broker in a car.

“When I was selling my land, the Tehsildar asked the clerk (*babu*) beside me about the payment and the cost of the land, and whether the clerk has received the money for his land or not and he nodded positively. The Tehsildar signed after that without asking me anything. I still have no idea who the buyer is.

“I was not allowed to speak and only the *babu* spoke inside. I know I have been cheated. The rate is Rs 10 lakh for an acre, and I have received Rs 30000 till now.” He knew where the remaining 4 acres of the land was located but had no idea of the *patta* number.

*Benami* transfers are carried out in a similar manner, where the Tehsildar or the signatory authorities participate in the transfer procedure. Newspaper reports and our research suggests that most companies buy land in the name of tribal poor who might be employees of the company, or by similar means. As a result, even when transactions are legal, they might be carried out in an unfair manner. The Patwari or the Tehsildar could easily stop such transactions if they wish to. They could ask simple questions, like how a daily wage labourer could get Rs 10 lakh to buy a plot of land in another village, district or even state—but they do not.<sup>22</sup>

Not only do they turn a blind eye, as previous experiences show, they often negotiate to convince villagers to give up their land. This experience was shared by LaxmanlalYadav, a non-tribal residing in Fatehpur for four generations. He lives with his wife and four children in the village with two daughters already married and settled elsewhere. He said the Sarpanch several years back had taken Rs 5000 as bribe from each family to issue *pattas* for forest land. He said that in 1992 he too had paid a fine for using forest land at the Tehsil court. However, he has still not received the *patta* for 2 acres of his land.

## **Impact of land alienation in Fatehpur**

While speaking about the impact of land alienation, most families see it as imminent that the company will come and take their land. In this sense they do not perceive land as just the plot they own but the richness of forests and other resources that were available to

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<sup>22</sup> Jindals grab tribal land worth crores in Chhattisgarh | Latest News & Updates at Daily News & Analysis. (2014). Retrieved March 31, 2016, from <http://www.dnaindia.com/india/report-jindals-grab-tribal-land-worth-crores-in-chhattisgarh-1998441>

them. The personal impact can be seen in repeated statements by people asking how they could survive if they lost their land.

But there are larger losses related to the loss of land and surrounding forests. Laxmanlal told us about his repeated woes when the elephants come into the village and destroy crops. This, news reports suggest, is a common problem with villages near the Dharamjaigarh forests.<sup>23</sup> Even though people have lost crops ready to harvest, compensation is difficult to come by. The Chhattisgarh government had even agreed to build reserve forests for elephants, but cancelled the plan eventually to use the land for mining.

In a group meeting in Fatehpur, the adivasis said they were surprised that a village with so many fruit-bearing trees, medicinal plants, and animals like elephants, and with so much forest around it, was actually being destroyed for mining.

One villager said in an interview, “Each tree here is important for different reasons: for fruit, wood, medicine etc. When the company turns this into a mine, all trees will be cut. We will be thrown out to some polluted city where we cannot survive. This type of injustice was not seen even during the British period.”<sup>24</sup>

Another villager said that Delhi had a population of 3 crore for whom this coal was essential to survive. So “300 of us are uprooted and thrown out so that they can save Delhi. That is why they do not even ask us.”

The changing society has changed the nature of agriculture as well. All villagers say that they would previously use a wooden plough and cattle for agriculture. Seeds and fertiliser would be produced domestically. However, this structure has changed. “Now we have to buy everything from the market like seeds, tractor, chemical fertilizer, medicine, labour work and even water. With the chemical use in the farm we have lost the taste of food and also its quality;, we are focusing on quantity of food, which is injurious to health.”

They all agreed that schools had been made in villages and more people were getting educated, but they said that education was not translating into jobs. And this unemployment was discouraging parents from educating their children.

The adivasis accepted that their forefathers would often die of hunger, but they would not sell their land out of poverty. As a result they now can till their land and have enough

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<sup>23</sup>Elephants in the Room | Subrata Biswas. (2015). Retrieved March 31, 2016, from <http://www.galli.in/2015/04/elephants-in-the-roomsubrata-biswas.html>

<sup>24</sup> Focussed group discussion. 23 November, Fatehpur, Raigarh district

to eat. But the youth is neither interested in farming nor in retaining land. “They are addicted to their bikes and alcohol. There are clashes if the old ask the young not to sell land”, said an old man in Fatehpur.

### 3.3 Summarizing the village narratives

Though the loss of land in both Durgapur and Fatehpur have been triggered by rich mineral resources underneath them, the processes and actors involved have differed due to distinct geographical location and social composition. While Durgapur is relatively closer to the town and its social polity is determined by its large population of Bangladeshi migrants, Fatehpur is further away from town and composed of a largely tribal population. The modernization in Durgapur and the consumerist culture were mainly triggered by the Bangladeshi migrants who practised commercial agriculture and displayed the penchant for bikes, television sets and other devices which required money. In fact, the impact of such a culture is also seen in both villages in the form of a rupture between the older and younger generations. While the younger generation lost parcels of land on being unable to pay off consumer loans, the older generation insisted they would have never sold off their land due to poverty.

### Land alienation in Raigarh district: wider perspective

Chhattisgarh’s population has been predominantly tribal since pre-medieval times, and they remained autonomous in the northern and southern areas of the state till the British period.<sup>25</sup> As a report on the implementation of PESA says, during colonial times, the tribes first lost their autonomy when the Marathas annexed the region and hiked taxes substantially in 1757. The British instituted the Malguzari system by which they appointed agents who could collect as much tax as they wished.

The report elaborates, “Most of these Malguzars were non-cultivating upper castes brought in by the British from north and central India who had no interest in the development of sustainable farming practices whatsoever. They were concerned only with the collection of revenue as were the British. Moreover a new trade route was

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<sup>25</sup>GRASSROOTS TRIBAL DEMOCRACY AT THE CROSSROADS. (n.d.). Retrieved from <http://www.scribd.com/doc/47418086/Local-Governance-in-Tribal-Areas-of-Chhattisgarh#scribd>

A Study of the Implementation of The Panchayat (Extension To The Scheduled Areas) Act 1996 (PESA) in the State of Chhattisgarh

opened up to link the region with the imperial capital in Calcutta and so hasten the exploitation of the rich natural resources of the region.”<sup>26</sup>

The British, now dependent mainly on the land revenue for their sustenance, kept bringing people from the plains into the forests of Chhattisgarh to expand settled agriculture in the area. This gave rise to major clashes between the adivasis and non-adivasis in the area.

The history of Raigarh district itself in colonial times confirms the interest of the British government to explore its rich resources for their own use. Raigarh was a feudatory state in the Central provinces with Bilaspur and Sambalpur bordering it on the east and the west. Its head quarters, Raigarh town was a station on the Bengal-Nagpur railway line. The pre-colonial history of Raigarh village in terms of its economy can be found in the district gazetteer.<sup>27</sup> It says, “Raigarh lies on the border-line dividing Chhattisgarh and the Oriya country, 80 per cent, of its residents speaking the Chhattisgarhi dialect and 15 per cent Oriya.” At that time the population was mainly aboriginal, with Kawars numbering 30,000 and Gonds, 16,000.

While 32 percent of the area was under cultivation, another third of the area was forest land. 80 percent of the cropped area was under rice cultivation. Iron ore and coal was already found in the area, and Raigarh was selling agricultural implements to the nearby areas. It was also exporting cucumber seeds and was known for high quality Tasar silk. There were 24 schools in the area, and the British land revenue system was also implemented in Raigarh.

The gazetteer gives a sense that the rich production of silk and other minerals made it imperative for the state to be connected to the market forces, also connecting it with the railways. Surprisingly the gazetteer does not mention any isolation of the tribal population or the inability to govern them. It speaks of a public dispensary in Raigarh town, of schools teaching English and of land revenue being collected by the zamindar.

After Independence, commercial agriculture, introduction of ‘green revolution’ methods and ignoring indigenous forms of cultivation brought further devastation.

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<sup>26</sup> Ibid

<sup>27</sup> Imperial Gazetteer of India. (n.d.). Retrieved from [http://dsal.uchicago.edu/reference/gazetteer/text.html?objectid=DS405.1.I34\\_V21\\_054.gif](http://dsal.uchicago.edu/reference/gazetteer/text.html?objectid=DS405.1.I34_V21_054.gif)

“The introduction of the profit motive among farmers and the monetization of the rural economy has been a blow to the community spirit, and the traditional consensus-based Gram Panchayats have lost their cohesiveness.”<sup>28</sup>

The setting up of the Bhilai Steel Plant and the onset of industrialization caused further distress, with huge displacement of farmers—mainly adivasis—with no commensurate increase in employment.

As research in the Journal of Developing Societies points out, “The state’s Mineral Policy 2001 has facilitated large-scale private sector investment in the mining sector and this has had its fallout effects on the tribal people and other subsistence farmers. In the coal bearing zones of Sarguja, Raigarh and Bilaspur districts, more than 72,000 acres of land have been granted on lease to South Eastern Coalfields Limited (SECL), a subsidiary of CIL.

Similarly, in Bastar and Durg districts more than 20,000 acres of land have been

### **People’s Reports point out loopholes in land records**

*A total of 19128 villages had prepared “Jan Rapats” or People’s reports in the state of Chhattisgarh, which were then scanned and analysed and used for the HDR in 2005. The report therefore speaks in some detail about the land issues in the state. It says land distribution and holding patterns are skewed in the state due to presence of large farmers, benami(defined as a practice where land records are maintained under fictitious or incorrect names) land records, and the presence of Malgujars or erstwhile landlords in charge of collecting rents who still dominate. Add to this immense pollution and decreasing water levels due to extensive mining, and reduced forest cover hastening the pace of soil erosion. Jan Rapats mention that there is little access to land records for the people, which in any case suffer from several errors. The report says, “Access to land records is not easy and the role of field level revenue officials is not always that of a facilitator. In many cases the records do not reflect actual ownership, especially in the case of larger landholdings. Another problem is that a large number of forest dwellers do not have clear land titles. Many of them have officially been categorised as ‘encroachers’ on forestland, although they were there long before the State declared their land as State forests.”<sup>1</sup>*

*The village and district reports also mention serious problems of encroachment, mainly on common land, which has meant decreasing fodder for cattle. This is an even bigger problem for small and marginal farmers, who depend largely on common lands for fodder. The district report prepared by the people says that the government should be more compassionate in their forest management, since the forests have been largely destroyed by the businessmen and not the tribals.*

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<sup>28</sup> Ibid

occupied for mining of iron ores in Bailadila and DalliRajhara areas of these two districts respectively. Apart from these areas, the state has reportedly given on lease 18,652 acres for various mining purposes and 26,410 acres for the setting up of various industries such as cement, steel, Ferro-alloys, re-rolling mills and rice mills. This means all total 137,062 acres of land have been leased by the state for mining and mineral-based industries (George, 2004). This land could have sustained at least 34,265 families or around 180,000 people with an average distribution of four acres of land per family.”<sup>29</sup> Even as our research concentrated on individual tribal land alienation, as seen from the qualitative research, the processes and causes of alienation are to a great extent related to the larger industrialisation process. The influx of non-adivasis in the area trying to get hold of the precious land and mineral resources below it almost seem like a continuation of what had been happening since the colonial times.

According to the Human Development Report prepared by UNDP for the state in 2005, 36 percent of the total land area is cultivated and 44 percent under forest cover. The report says, “Chhattisgarh is rich in mineral resources. Vast reserves of coal, iron ore and bauxite are found here, along with limestone and dolomite. This is the only State in the country where tin ore is found. Diamonds and semi precious stones like corundum, quartz and garnet are also mined here. While mining provides employment to some people and substantial revenue to the State, the industry has an adverse impact on the environment in some districts.”<sup>30</sup>

In the specific case of Dharamjaigarh, the Indian government made matters worse with the shifting of the Bangladeshi immigrants into the area, which pitted the adivasis against the immigrants, both oppressed groups fighting for the same resources. As Savitha Rath, an activist with the Jan Chetna Manch working towards tribal empowerment in the area, said, “This is like a guest comes to your house, and then stays back, refuses to leave. And then they take authority of the house and call you foolish.” While the government worked towards commercialization of agriculture and brought technical advances which further helped the immigrants, the adivasis have been strategically kept away from forests. The

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<sup>29</sup> R. M. (n.d.). Globalization, Displacement and the Livelihood Issues of Tribal and Agriculture Dependent Poor People : The Case of Mineral-based Industries in India. *Globalization, Displacement and the Livelihood Issues of Tribal and Agriculture Dependent Poor People : The Case of Mineral-based Industries in India*. Retrieved from <http://re.indiaenvironmentportal.org.in/files/file/Globalization & Displacement.pdf>

<sup>30</sup> Human Development Report Chattisgarh. (n.d.). Retrieved from [http://planningcommission.nic.in/plans/stateplan/sdr\\_pdf/shdr\\_chh05.pdf](http://planningcommission.nic.in/plans/stateplan/sdr_pdf/shdr_chh05.pdf)

Bangladeshis were given clear land and help to settle while adivasis were expected to cut forests and settle on their own.”

As a result the companies that are coming in to acquire land are using the Bengalis against the adivasis, as agents. Savita Rath says, “So youngsters who were strategically targeted (by land mafias) are given lots of *nasha* (intoxicants), and exposed to material life, machines, bikes and are told that your life is incomplete without these needs, hence a split was created between the two generations.” The adivasis were slowly marginalised in their own land with the inflow of strangers never going down, robbing them of land, resources, livelihood and their own culture.

## Legal framework to counter land alienation and implementation of PESA

Chhattisgarh adopted the Panchayati Raj legislation applicable in Madhya Pradesh after it was formed in 2000.

The state added a new chapter to Chhattisgarh Panchayat Raj Adhiniyam, 1993 (CPRA) to extend the special provisions for Panchayats in Scheduled areas of the State.<sup>31</sup> “Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 were added in Section 129-A to 129-F of Panchayati Raj Act, 1993 as per Second Amendment to the Act in 1997.”<sup>32</sup>

Out of 27 districts in Chhattisgarh, 13 districts are fully covered under PESA while 6 districts are partially covered under it. In total, 85 blocks in the state are covered by PESA.

According to a research paper published in September 2014, laws in Chhattisgarh are not compliant with PESA. “The Government of India, Ministry of Panchayati Raj, in its office memorandum dated 2nd December 2013 observed that:- a. Six out of nine states have not framed appropriate rules under PESA. Chhattisgarh State is in process of framing the Model PESA Rules for the State. Initial consultation has been done between Directorate of Panchayat and the legal cell. Further consultation is in process.”

However just looking at the issue of land alienation, the Chhattisgarh Panchayat Raj Evam Gram Swaraj Adhiniyam 1993 as amended in 1997 has some powers vested in the Gram Sabha.

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<sup>31</sup> European Academic Research. (n.d.). Retrieved from <http://euacademic.org/UploadArticle/907.pdf>

<sup>32</sup> Ibid

Section 129 c (iii) - The natural resources within the area of the village comprised by land, water and forests will be managed in comprehensive accordance with the traditions of the village, the provisions of the Constitution and any reasonable laws that may be in existence.<sup>33</sup>

Under PESA, the governor also has the power to make regulations which could prohibit “or restrict the transfer of land by or among members of the Scheduled tribes in the area.”

The PESA asks the states to frame laws so that the gram sabhas and panchayats at the appropriate levels are empowered “to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe.”<sup>34</sup> However the Chhattisgarh revenue code has not made any clear provisions to this effect.

The only provision it has to safeguard adivasis against alienation from land is Section 170-B, which says that if a Gram Sabha finds that a non-tribal is holding land which originally was owned by a tribal ‘without any lawful authority’, ‘it shall restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs.’<sup>35</sup> In case the gram sabha or panchayat is not able to address the issue, they must inform the Sub Divisional Officer, who must address the issue and restore land within three months of getting the reference.

Apart from this, Section 170 B of the Chhattisgarh land code also prevents the sale and transfer of Adivasi land in Adivasi areas. “Under this provision, land occupied by Scheduled Tribes before 1980, and which is transferred to non-tribals, the non-tribal shall inform the SDO about such transfers. If on enquiry, the SDO finds that the transfer is not bonafide, he/she shall cancel the transfer and the said land is to be returned to the

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<sup>33</sup> GRASSROOTS TRIBAL DEMOCRACY AT THE CROSSROADS. (n.d.). *GRASSROOTS TRIBAL DEMOCRACY AT THE CROSSROADS A Study of the Implementation of The Panchayat (Extension To The Scheduled Areas) Act1996 (PESA) in the State of Chhattisgarh.* Retrieved from <http://www.scribd.com/doc/47418086/Local-Governance-in-Tribal-Areas-of-Chhattisgarh#scribd>

<sup>34</sup> FIRM, L. E. (n.d.). *PESA IMPLEMENTATION – SOME ESSENTIAL PREREQUISITES AND SUGGESTIONS FOR THE STATE OF CHHATTISGARH.*

<sup>35</sup> Ibid

original tribal owner. It is also provided that in case the non-tribal does not inform the SDO about such transfer, this transfer shall *suomotu* be considered non-bonafide.”<sup>36</sup>

The power to cancel such non-bonafide transfers remains with the Gram Sabha. The report gives a glimpse at such cases registered with the state and their resolution:

**Table No 14: Data on Restoration of tribal land**

No of cases registered	Total Disposed Cases	Balance Cases	Cases disposed in favor of adivasis	STs Area of Land returned to STs (Ha.)	Cases Yet to be returned	Area of Land yet to be returned to STs (Ha.)
44464	44093	571	18307	12212.147	81	100.183

The Governor also has the power, with the advice of the Tribal Advisory Council (consisting of tribal MLAs of the state) to repeal the Land Acquisition Act or the Indian Forest Act. However such powers are not being used, evident in the fact that the council has only met once since 2006.

A study by the Society for Participatory Research in Asia carried out a survey on Chhattisgarh that showed that most government officials and civil society workers did not know about the important provisions of PESA.<sup>37</sup> The findings were confirmed by another study ‘Local governance in tribal areas of Chhattisgarh’ which says, “more than a decade after the amendment of the Chhattisgarh Panchayat Raj Act in accordance with PESA there are only a handful of NGOs and CSOs that are aware of its powerful provisions. Obviously the awareness of these provisions among the tribal populace is almost non-existent.”<sup>38</sup>

However, there has been gross disrespect of PESA and the state laws conforming to it due to large-scale corruption in the lower rungs of bureaucracy, the complacency and sometimes even involvement of the higher bureaucracy and the politicians. Elsewhere in Chhattisgarh due to heavy corporate buying of land, which is forbidden by

<sup>36</sup> Jaisawal, A. K. (n.d.). E-Governance in India. *International Journal of Electronic Government Research*, 4(2), 12-26. Retrieved from <http://euacademic.org/UploadArticle/907.pdf>

<sup>37</sup> Ibid

<sup>38</sup> Ibid

law, the involvement of higher rungs of bureaucracy and politicians is not uncommon. A case in point is the buying of land related to the Videocon project in Janjgir Champa district. News reports showed in 2011 that “Sandeep Kanwar, the son of home minister Nankiram Kanwar, had been acting as a 'front' for Videocon, which is setting up a power project in Janjgir Champa district. Since Chhattisgarh's rules do not permit the sale of tribal land to non-tribals, the company had enlisted Kanwar, who is tribal himself, to buy land for its project.”<sup>39</sup>

After the reports came out, the district collector Brijesh Mishra ordered an enquiry and cancelled transactions there naming it “benami” and “illegal.” The report shows that the company had also used some tribal villagers who were employees of the company to buy land, but the collector was silent on such transactions.

Rajesh Tripathi, activist with Jan Chetna Manch explained what he saw from very close quarters. “When the government plans to establish mines and power plants, the land mafia in collusion with political leaders and bureaucrats (SDM, Tehsildar, Patwari) are the first to know about such projects, and they become active immediately. These people have a lot of black money which they use to buy lands from the villagers at cheap prices and then they give it to the government under the land acquisition scheme and collect huge amounts of money as compensation. The right process is never followed though the laws are strong. Under the law, the process that should be followed is: Firstly there is a deal between the buyer and the seller which has to be approved in the gram sabha, then it goes to SDM and investigation is done by a non departmental authority. If the process has been followed and if there has been transparency, then it goes to the Collector.

In Tamnar, in 7 villages, 374 acre of land was given by Mr. Chaurasia, the SDM, even when the buyer had no license. He was suspended after investigation. The pattern however still remains same and such suspensions also do not change the prevalent process.”

The words of both the people and activists who work in the area, and the sheer evidence of the amount of land transferred despite the laws in place, speak volumes of the disregard of the system. The bureaucracy at all ranks cannot be unaware of what is happening around them.

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<sup>39</sup> Chhattisgarh govt cancels 'benami' land purchases for Videocon - Times of India. (n.d.). Retrieved March 31, 2016, from <http://timesofindia.indiatimes.com/india/Chhattisgarh-govt-cancels-benami-land-purchases-for-Videocon/articleshow/9067901.cms>

## 6. Political struggle

The tribes in Chhattisgarh have put up a brave resistance against exploitation and plunder, to protect their land and traditions since the 18<sup>th</sup> century, beginning with the Halba Rebellion in 1774-79 in Bastar district against the Marathas and the British which aspired to establish a separate state of Dongar.<sup>40</sup>

This was followed by the Bhopal Patnam in 1795, Paralkot Rebellion in 1825, the Rebellion of Tarapur in 1842-54, the Maria Rebellion in 1842-63, the Koi Revolt in 1859, the Muria Revolt in 1867 and the Bhumkal Rebellion in 1910.<sup>41</sup> The Bhumkal rebellion spread to around 46 of 84 paraganas of Bastar, in an attempt to preserve the land and natural resources of the adivasis for themselves. It was fuelled by declaration of huge forest areas as reserved forests, which would trigger large displacement of adivasis. The monopoly of liquor brewing for the government and the oppressive land revenue system were other causes of the rebellion.

The resistance of the adivasis continued even after Independence. Prabir Chandra Bhanjdeo, the king of Bastar, encouraged the adivasis to disobey the new government, following which in 1953 the Madhya Pradesh government deprived him of his estate. In 1955, he formed the AdivasiKisanMazdoorSangh. In 1957 elections the Congress supported him and won, but since his estate was not returned even then, he resigned and continued working under the umbrella of AdivasiSeva Dal. Bhanjdeo was arrested in 1961 following major attempts at taking over government and non-tribal land in the district. The confrontation with the police and the government increased, with 13 people being killed in police firing in a market in March 1961 along with several others being arrested. But the court ruled against the police and those arrested were released. This was followed by another round of resistance in 1966 against a levy on rice cultivation while the country was reeling under massive food shortage. In March that year, a huge gathering of Adivasis with bows and arrows (against police orders) was fired upon, leading to killing of 12 people including Bhanjdeo.

Even in recent times resistance against the underdevelopment, deprivation from natural resources and livelihoods, and displacement from land has continued. One manifestation of it is the spreading of the Naxalite movement, an armed struggle against the Indian

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<sup>40</sup> Halba rebellion (1774 – 1779). (2011). Retrieved March 31, 2016, from

<https://anarchyindia.wordpress.com/the-tribal-revolt/halba-rebellion-1774-1779/>

<sup>41</sup> Dwivedi, S. (n.d.). Tribal rebellion in Chhattisgarh. *International Journal of Business and Management*.

state, which has spread to districts like Bastar and Dantewada, where the Naxalites have been able to form 'liberated' zones.

Apart from this there are other grassroots movements run under multiple organizational names and spread across the state against various industrial projects, the Land Acquisition Bill and land acquisition procedures. A few such organizations are National Campaign on Adivasi Rights (NCAR), Ekta Parishad and the Zila Bachao Sangharsh Morcha. All of these groups are fighting for their rights over their land and livelihood.

Recent news reports say that 20 gram sabhas in the same region have taken a resolution to stop mining in the forests of Dharamjaigarh and Hasdeo Arand areas in Chhattisgarh. A delegation that represented the Chhattisgarh Bachao Andolan and Hasdeo Arand Bachao Sangharsh Samiti was protesting against the new government's ordinances related to land acquisition and coal mining, and wanted the government to know that 20 gram sabhas did not want any mining activities to destroy their land and livelihood.<sup>42</sup>

Apart from this, there was growing resistance in the Dharamjaigarh block where DB Power was about to acquire 350 acres of land to extract coal.<sup>43</sup> Along with Dharamjaigarh, other blocks of Gaare in Raigarh district, the adjoining Janjgir-Champa district and the Korba industrial area, and the northern district of Jashpur were also seeing incessant protests against the land acquisition and displacement of the adivasis and migrant Bangladeshi population that are settled in these areas.

Though the present research focuses on cases of individual alienation of adivasis from their land, in Chhattisgarh, as the research shows, individual transfers are also linked to large scale mining and industrialisation of the state. Mining projects have been announced in many areas of Chhattisgarh while there are many more areas waiting, knowing they are sitting on top of very valuable mineral resources. Given the several bitter land struggles in Dharamjaigarh block, other areas of Raigarh district and the state of Chhattisgarh, the land records seem to tell a different story. The adivasis in most

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<sup>42</sup> Chhattisgarh: 20 Gram Sabhas Pass Resolutions; Demand Restriction on Coal Mining in Hasdeo Arand and Dharamjaigarh Forests. (2015). Retrieved March 31, 2016, from <http://www.indiaresists.com/chhattisgarh-20-gram-sabhas-pass-resolutions-demand-protection-of-constitutional-rights-of-adivasis-restrict-coal-mining-in-hasdeo-arand-and-dharamjaigarh-forests/>

<sup>43</sup> Standing up to the state. (n.d.). Retrieved March 31, 2016, from <http://www.frontline.in/static/html/fl2812/stories/20110617281200900.htm>

villages still own most of their land, though without in depth study it is not possible to tell if they are in control of the owned land.

The extent of individual land alienation in Chhattisgarh, should thus be seen along with the extent of land acquisition in the state and alienation that has resulted due to this. Till 2007, more than 1.5 lakh acres of land has been acquired in the state. Adivasis inhabiting the mineral-rich areas have been the biggest sufferers from such acquisitions and displacements. The individual alienation, often triggered by the larger acquisition process and entry of non-tribals and corporate capital into tribal belts can be prevented only by addressing the industrialization policy of the government and a more vigilant and honest bureaucracy.

## 7. Recommendations

Apart from the national level policies that need to be adopted to safeguard adivasis, here are some recommendations for the Chhattisgarh state government required to prevent further alienation from land.

1. The Chhattisgarh Land Revenue Code must empower the Gram Sabhas not just to restore land once alienated, but prevent the alienation of such land.
2. The bureaucracy, especially the SDO and the Collector, must be given prior notice to not allow any sale or transfer of land once mining projects are announced for a certain area. Even if the land acquisition is passed, the compensation will then be received by the original owner of the land and not the new buyer.
3. It should be mandatory for the Patwari to prepare annual records of any sale or transfer of land in Scheduled areas, and the report be submitted to the SDO to make grievance redressal easier.
4. The sale or transfer documents must be approved by the SDO or Collector in the presence of both buyer and seller and the major facts like area of land sold and compensation received be verbally cross-checked by the approving authority with both parties.

## **Chapter 2**

## **Rajasthan**

## Introduction

The western Indian state of Rajasthan has a population of 9.2 lakh adivasis, according to the 2001 census, the majority of whom live in rural areas. They form 13.5 percent of the total population of the state, up from 12.6 percent in the previous census of 2001. The adivasis in the state majorly stay in southern Rajasthan in the “districts of Banswara and Dungarpur, the tehsils of Kherwara, Jhadol, Kotra, Salumber, Sarada, Dhariyawad and 81 villages of Girwa panchayat samiti of Udaipur district, Partapgarh and Arnod tehsils of Chittorgarh district and Abu Road block of Sirohi district. Five districts viz., Udaipur, Banswara, Dungarpur, Jaipur and Chittorgarh account for more than half (54.50%) of the total ST population in Rajasthan.”<sup>44</sup>

The major tribes in Rajasthan are Bhil, Meena, Damor, Patelias, Gometis, Bhil-Meena Sahariyas, and Gharasia. The tribal development plan of the state in 2008 says, “The economy of adivasis continues to be predominantly agriculture with small landholding and irrigated area. These communities have higher incidence of illiteracy, malnourishment and poverty, and face social and geographic isolation. The region lacks productive land, irrigation facilities, industrialization and skill building opportunities.”<sup>45</sup> The district selected for the study is Udaipur. Udaipur is the fifth largest district in Rajasthan in terms of population and eighth in terms of area, and Girwa is the largest Tehsil in terms of the number of villages. According to the 2011 Census, scheduled tribes consist of 49.71 percent of Udaipur district population, significantly higher than the state percentage of 13.5 percent. Udaipur is a partially scheduled district and was chosen because of several factors: it is the most mined district in the state with huge reserves of copper, lead, zinc and silver, phosphate, asbestos, calcite, lime stone, barites, emerald, marble etc. A major portion of the district is also covered with hills and therefore forests which produce substantial quantity of Tendu (Asian ebony), honey, wax etc. Rajasthan almost attracts 27% of total tourists visiting India every year according to the data in 2008, which is a significant rise from 23% in 2000.<sup>46</sup> Apart from partnering with the organisation Astha who have a formidable body of work in this district, the district was interesting because of a high percentage of adivasis and non adivasis living together, the

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<sup>44</sup>Panchayat and Rural Development Department, Government of Rajasthan, 2010

<sup>45</sup>Ibid

<sup>46</sup>In 2000, 23% of tourists visiting India travelled to Rajasthan. Spatial Availability of Tourism Services in Rajasthan with its sustainability concept. *South Asian journal of Tourism and Heritage*, 4(1), 59-73.

heavy mining, bustling tourism and the district's own experiments with implementing the Forest Rights Act and issuing forest land. Within Udaipur district, to get a sense of the impact of growing promotions for tourism, the automatic choice was the block in which the city of Udaipur is situated, the Girwa Tehsil. In other words, we based the choice of our field within the state on the assumption that the tourism industry-related push on tribal land, would help us check out our key research questions – extent of land alienation over time, and the processes.

Below we report the findings of the study, firstly looking at the extent of land alienation, and then exploring the processes involved. Finally we try to make sense of the dynamic (alienation or not, and how) by contextualizing our findings drawing on secondary literature, details of local and state-level conditions, including the historical setting, the legal framework, administrative factors and the role of popular movements, among others. The chapter concludes with a set of recommendations.

## 2. Extent of land alienation

To answer this question, we use the following methods – (i) examining land records of the village, for three time periods – 1950, 1980 and 2014 – to report tribal landholding as a way to provide data on how much land has moved from tribal to non-tribal hands, (ii) in-depth look, using land records and Participatory Land Survey (PLS), to better capture alienation.

### 2.1 Land records

The land record data was available for all ten randomly selected villages in the state. The villages were selected from Census data, with only one controlling condition: household numbers for all villages were between 75 and 200 in the 2011 census. After controlling for the household numbers, the villages were randomly selected. However, it was also required that the villages selected had been independent revenue villages even in the 1950s so that relevant land records would be available, allowing us a baseline from which to measure extent of alienation.

Tables 1 through 9 provide data on land holding by tribal and non-tribal groups for the three time periods, gleaned from land records, for nine villages. In these, land records were collected and analysed to see the percentages of land owned by adivasis as against non-adivasis over a period of time. The tenth village, Sathpur Minan, for which land records were also collected, did not have caste of the land owners mentioned clearly and consistently, as a result of which the data could not be used for analysis.

**Table 1: Biliya tribal land holding**

<b>Bilia</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	32.2	32.02	6.9
<b>Non Adivasis</b>	67.8	67.7	93.1

**Table 1: Chandni tribal land holding**

<b>Chandni</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	Caste not available	0
<b>Non Adivasis</b>	0		100 (Kanwar)

This is a case that must not be taken at face value. The ownership of all land in Chandni in 2014 remained with a caste named Kanwar. Kanwar is a scheduled tribe in the rest of the country—for instance, in Odisha, Madhya Pradesh, Chhattisgarh and Maharashtra. However, in Rajasthan they have been listed as a caste and not a tribe.

**Table 3: Jodhpuriya tribal land holding**

<b>Jodhpuriya</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	99.23	86.8
<b>Non Adivasis</b>	0	0.7	10.5

**Table 4: Peepliya tribal land holding**

<b>Peeplyia</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	100	98.5
<b>Non Adivasis</b>	0	0	1.5

**Table 5: Keli tribal land holding**

<b>Keli</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	100	100
<b>Non Adivasis</b>	0	0	0

**Table 6: Manpura tribal land holding**

<b>Manpura</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	100	99.9
<b>Non Adivasis</b>	0	0	0.004

**Table 7: Rayta tribal land holding**

<b>Rayta</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	100	100
<b>Non Adivasis</b>	0	0	0

**Table 8: Kodiyat A tribal land holding**

<b>Kodiyat A</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	100	81.4	36
<b>Non Adivasis</b>	0	18.6	64

**Table 9: Kodiyat B tribal land holding**

<b>Rayta</b>	<b>1950</b>	<b>1980</b>	<b>2014</b>
<b>Adivasis</b>	61.6	83.5	98.2
<b>Non Adivasis</b>	38.4	16.5	1.8

The above data shows that, among the villages randomly selected from the census, apart from the villages of Biliya, Chandni and Jodhpuriya, land alienation from adivasis to non-adivasis has either been minimal or insignificant. The case of Biliya, Chandni and Jodhpuriya shows however that alienation has happened, in all three cases, quite significantly between 1980 and 2014. But this still is not the full picture, especially since our assumption is that most land transfers from tribal to non-tribal hands are not recorded, and hence not captured by formal land records. We therefore need to dig deeper.

## 2.2 Participatory Land Survey (PLS)

The two villages selected for in-depth study were Kodiyat A and Dhalicha—in government documents they are known as Kodiyat A and Kodiyat B. The villages were situated close to Udaipur town, uphill from the small town of Ramgarh. Although in other states we have selected villages that are distant from each other, and which might face alienation due to very different causes, here the two villages selected were geographically close to each other and facing similar problems. The sole major difference between the two was that Dhalicha was located just about 3 km higher up from Kodiyat on a hill. However, they were at different stages of the problem of land alienation. While Kodiyat had lost most chunks of its land due to the number of 5-star resorts and luxury hotel properties that had come up, Dhalicha was just beginning to feel the pressure. Most of its land was still safe, with a few exceptions, and their land problems differed—a long drawn out struggle with the government to legalise their hold over forest land they had been tilling for generations.

The PLS was conducted in the two villages over the period of a week in April 2015. During the surveys in each village, over the first few days the concept was explained to everyone, and people were asked to gather at a particular spot on a certain day. Once they gathered, the map and the land records were shown to them and read out aloud so that the people could say who possessed the land at the moment. This information was later processed to determine the actual possession of land by adivasis.

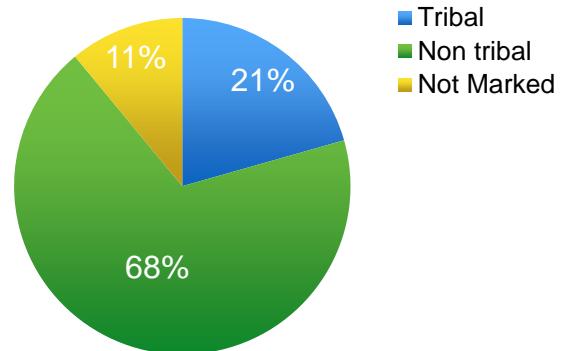


Figure 1: PLS data for Kodiyat A, 2015

### PLS for Kodiyat A

The 1950 data shows (Table No. 8) that 100% of the land belonged to adivasis. In 1980, 81.4% of total land area was owned by adivasis. In the latest record of rights created in 2014, around 36% of total land acreage was owned by adivasis. However, the participatory land survey showed that currently only around 20.6% of the land remains with the adivasis.

### PLS for Dhalicha/Kodiyat B

As Table no. 9 shows, the land record history of Kodiyat B is more complicated. While tribal land holding started with 61.6 per cent in 1950, it rose to 83.5 per cent in 1980 and to 98.2 per cent in 2014. The rise in the first three decades could be explained by the fact that the government settled adivasis from outside the village here in the early 1950s, with 2.5 bigha of forest land granted to each family. However, explaining the rise in the last three decades is not as easy. The PLS also cuts down actual tribal possession to 88.7 percent.

The above data for the two villages, based both on official land records as well as participatory tools to map transfers, proves conclusively that there has been significant alienation. There are two clear lessons then: first, that alienation is in fact taking place, and second, that official records, in the way they are currently set up, do not capture this significant degree of alienation as the transfers seem to circumvent official channels, or take routes aimed at defeating the very purpose of these laws and procedures: to contain tribal land alienation. In particular, the phenomenon of *benami* is used to carry out alienation, although it is not the only process used. The following section, based on our PLS as well as interviews with key informants, will try to understand this dynamic, through mapping and understanding the processes and drivers of land transfers from adivasis.

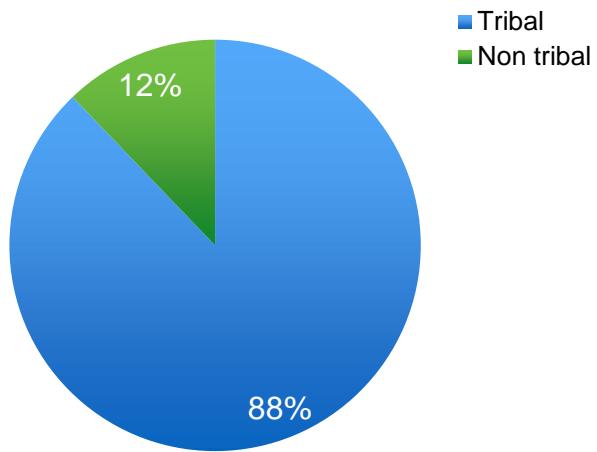


Figure 2: PLS data for Dhalicha (Kodiyat B), 2015

### 3. Processes of land alienation

#### 3.1 Understanding land alienation in Kodiyat A

The first village that we surveyed was Kodiyat A, a few kilometres away from the city of Udaipur. The first sign that greets you while taking the steep rise towards Kodiyat from Rampur chowk near Udaipur city is a greeting from Ramada Inn. As you go up the hill, fancy signboards outside big gates tell you the names of resorts that want to entice by offering the best views and a retreat from the bustle of the city. As you keep going up, the roads remain tarred and keep getting narrower till you cross the first village of Bujra into Kodiyat village.

The household survey in the village did not reflect adequately the amount of land alienation in the area as compared to the PLS, the reason for which we fathomed much later. A total of 88 households were surveyed, out of whom 31 households said they had lost their land. Of these, 21 households said they had lost less than 1 acre of land.

There could be underreporting of land loss in the household survey because villagers themselves are engaged in conducting the survey, which means that intra-village political and social hierarchies could impact the result of the survey. The other plausible cause is that the person who agreed to help us find people for the survey, the son of the village Sarpanch, had according to many villagers himself acted as a broker in the village. His elder brother, a prominent member of a politico-socio-religious group in the area, 'Shibdal', was also into brokerage, which several other villagers confirmed. These could be some of the reasons why the household survey failed to do justice to the questions asked.

The survey showed that 89% of those who had lost their land had actually sold it. Out of those who sold their land, 42% households sold it to meet daily expenses while 35% had sold to cover health expenses, proving that transfers were not by choice, and hinting that poverty might be the primary driver.

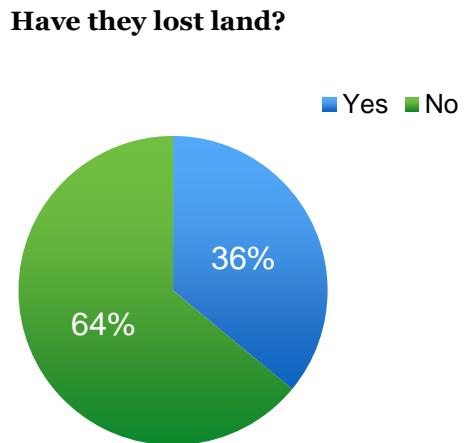


Figure 3: Percentage of households who have lost land

But 25 households (89%), a majority, had lost their land to other adivasis. Although allowed by law, this still has the effect of alienating land, as tribal to tribal transfer seems like the preferred route for those keen to circumvent the law. This is important to understand as a process of alienation, in which often the legal procedure for transferring land from a tribal to non-tribal is avoided by buying the land in the name of a tribal, often referred to as a *benami* transfer. The sellers often do not know who the original buyer of the land is. The buyer, usually a non-tribal, buys the land using the name of a tribal and pays him some amount for the use of his name and identity.

In the numerous interviews and interactions in the village, most people reported that over the past one decade, at least 75 percent of land in the village had been lost to others. Sometime, the land was officially bought by another tribal. However, the new buyer who belonged to another village would not shift to Kodiyat. This meant the land was never bought for farming or settlement of another tribal; and hinted at the the existence of another buyer who bought land in the name of the tribal. There was clearly a discrepancy between the possessor and the owner. This is another significant finding, showing the many slips between land ownership as shown in official records, land ownership in fact (*benami*), and actual possession or use of land.

While speaking to a man at a tea stall<sup>47</sup>, we got a sense of the history of the village, and insight into what drives the (illegal/informal) transfer industry. He was almost 60 years old, and said his

*The first meeting we had with the teachers in Kodiyat confirmed the popularity of stereotypes about tribals: that they are lazy because they drink and vice versa. They do not want to send their children to school as they make their children work in the fields, grazing cattle and do not understand the importance of education. We entered the school around lunchtime, and in the two hour long conversation we had, none of the entirely non-tribal staff told us that classes were stalled and that our presence was hampering education. It seemed normal for the kids to play till it was time for the school to shut for the day. In a later interaction with one of the teachers, we got to know that his children went to a private English medium school in a nearby town. But the teachers could give us no information about the land dealings and situation of land ownership among tribals, though they confirmed that the landscape of the whole region had changed over the past decade due to the building of five-star hotels and influx of tourists.*

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<sup>47</sup> Sundar Meena, 26 March, 2015. Kodiyat A, Udaipur district

grandfather had travelled from another part of Rajasthan and settled here which was the case for most of the families here. Kodiyat had only 7 households when his grandfather shifted and the village grew to around 120 households over this period. He said, “When I was young no one sold or even mortgaged their lands here. Why would they? What would they eat?” However, the reality had changed over the past 5 years. He said no one had vast tracts to sell anyway as they would only own around a bigha. “But they have become greedy now, or are trapped into greed.” As our data shows, poverty and the need to meet consumption needs, might be the other side of greed.

The old man’s account of how the village has seen a rush for selling land provides insight into the dealings of those who seek to influence adivasis to part with their land. He recounted a story that we heard various versions of over the following days. “A few years back, news came to the village that a dam would be built here. Everybody thought their land is going to be submerged in water. People said that one would get nothing for their land. Now farmhouses are being made: Rs 2-3 crore have been spent just on labour. They bought all the land and now they won’t allow any dams to be built here.”

Some people we spoke to think this story of a dam was just a rumour to speed up the process of transfer of land ownership, while a few thought too much money had been invested here, which led to shelving of the project.

Clearly it is a combination of ‘push’ (by big business, real estate or tourism lobbies) and ‘pull’ factors (adivasis’ need for ready cash to meet their consumption needs, sometimes life-threatening, but not always), that work to create conditions for the incessant transfer of land.

Questions about the exact process of transfer of land brought out a pattern and hierarchy of the stakeholders involved. The buyer, in the case of adjoining villages, usually five star hotels or those looking to make farmhouses, are typically non-tribal and belong to cities. This could be from Udaipur, but in many cases, also belonged to bigger cities like Mumbai. They are in touch with non-tribal brokers who belong to Udaipur or other cities from Rajasthan. The non-tribal brokers are seen frequenting the villages often, travelling in four wheelers. They either negotiate directly with the landowners or prefer to work with local (typically tribal) brokers, who act as agents to identify adivasis in distress, who might become potential sellers.

Jamnalal Gometi,<sup>48</sup> a 38-year old resident of the village, had worked in a Marwari household ever since he was a child. He said that in the past all households would come

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<sup>48</sup> Jamnalal Gometi, 27 March, 2015. Kodiyat A, Udaipur district.

together and solve any problem one family might face. But the solidarity has changed; no one wants to involve themselves in others' problems. Adivasis from the village had been cheated by non-adivasis in land transactions, and now adivasis themselves were cheating people from their own community. He said even after selling their land, compensation was meagre and people had to work hard to make ends meet. "Soon the people from this village won't have any space to build even their houses. There is no space for grazing cattle, and tribals are even drinking milk in plastic sachets bought from the city."

In most cases, the villagers said, if a person fell sick or had a big social function at home, a broker or an agent from the village would promptly show up offering money. The next morning they would come and get signatures on a piece of paper, which would make the tribal indebted to the "lender" without his informed consent. The next time there was a function or a tragedy in the household, the lender would arrive again, and provide more money in lieu of the land. For this process to work, the role of the local broker residing in or around the village is crucial, where he passes on the information about the need for money to the "outsider" broker. These local brokers are usually adivasis themselves. In one such case of alienation of land in the village, a neighbour observed, "Once an agent came and approached my neighbour. They did not even talk about the land first. He took out the children to some temple, sight-seeing around, roamed around the whole day. By the time they came back at 5.00 pm, they went to the register office and got it registered for Rs 13000. The broker had promised Rs17000, but finally gave Rs13000."<sup>49</sup>

Jamnalal sighed to us showing all the hills around and how new hotels were coming up almost every three months. "If you look around, can you believe mountains can be sold? It is all sold. The buyers here are mostly from Mumbai. Even the village head here, Nilkanth (his son) had come: they have sold around 2.5 acres of land among these mountains. It has been sold from all sides. Mountain land is part of people's revenue land here. Mostly all the land belonging to people here is being sold."

Sometimes the owner of the land is not even informed when the land is "sold." As explained by another villager from Kodiyat A at a tea stall between the two villages, the Dalal, or broker, reaches the Patwari directly. "The Dalal always works swiftly, efficiently without raising much noise. The Dalal asks the Patwari directly for information on who owns what amount of land and where. They get the registration done in the Patwari's

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<sup>49</sup> Anonymous. 27 March, 2015. Kodiyat A, Udaipur district.

office without the knowledge even of the landowner. When the buyer comes to take the possession of the land, that is when the landowner gets to know.”<sup>50</sup>

So how are the registration formalities completed in the process, we ask. “They are generally called to the office and made to put their thumb impression on the papers. They are sometimes forcefully taken to the registrar’s office.” Sometimes they are made to put impression on a paper saying it was important to avail of a new government scheme.

Indirect force is also at times applied to take away land from the unsuspecting adivasis. If a tribal refuses to sell a piece of land where other adjacent lands are already sold, there is immense pressure on him to sell to make the land piece a complete whole. A villager said the tribal would not be able to continue on his own. “They will then forcefully take it away. They will stop and block all roads that lead to the land and not let anyone reach that plot. They will not let you cultivate any land till you have to give up the land or sell it for a pittance. If you don’t get a road or path that leads to the plot, what will you do with that plot of land?”

The following is a listing of the various routes to tribal land transfer, that we gleaned from our discussions with key informants, including the local MLA, himself a tribal.

1. Forced sale of land: Here pressure is created on the land owner, sometimes with the use of force, to make him sell a piece of land.
2. Kidnap and land sale: The MLA (elected leader) said that in all areas adjoining Udaipur city, it was not uncommon to see land owners being kidnapped to get their consent for selling land.
3. Falsely increasing acreage sold: If the tribal agrees to sell 1 bigha of land, the broker and the buyer write 2 or 3 bigha on the documents and get the signature so that they get control of all of the person’s land.
4. Buying land in the name of a tribal: Often non-tribal buyers use the name of a tribal to buy land.
5. Converting agricultural land to non-agricultural purposes – Rajasthan laws allow for conversion of tribal land to homestead, which can be sold to non-tribals. Here the role of the Patwari and Tehsildar is crucial in giving the relevant permissions for the transfer. The law states that the land will have to be returned to the tribal

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<sup>50</sup> Anonymous, 27 March, 2015. Koidiyat B, Udaipur district.

if construction is not done in three years, but mostly just a boundary wall is constructed to keep permanent possession over the land.

### **3.2 Making sense of alienation in Dhalicha**

The story of alienation of land in Kodiyat B or Dhalicha, just a little uphill from Kodiyat A, was completely different. The first thing that struck the researchers was that the villagers here had already gathered at the common hall in the village when they got news from their neighbouring village that a survey on land was about to happen. This was quite unlike the experience in Kodiyat A where people did not come together even once, and where resistance to the participatory land survey was clear.

The survey was conducted among 95 households in Dhalicha. 12 families or 12.5 percent of the families had lost their land. Out of these 12 cases, 11 households admitted to selling their land while one family said their land had been forcefully taken away. Only 4 of them said they had sold their land to a non-tribal while one had sold it to a tribal, while the others were not sure of who the buyer was. This would be typical of situations where a broker would be involved, and would be the only person who the seller would be in contact with.

In Kodiyat B a few brokers had also come to attend the meeting. They did not belong to the village and were pointed out to us later by the villagers.

The history of Kodiyat B, or as the local villagers call it, Dhalicha is interesting. Most of the villagers are original inhabitants while a few households came here around the time of independence. After Independence, the government had given 2.5 bigha of land to each of the households, although not every family in the village could get the same legally on paper. Before Independence the people had been cultivating land as sharecroppers or without proper lease agreements. However, since the government distributed land, several generations have passed and most families have very little land left to survive on and cultivate forest land as a result.

Now villagers have come together and are doing the rounds of the District Collector's office, but each time they go they are told that there are mistakes in the paperwork, and consequently no progress in the case, the villagers told us.

Our local research assistant told us that some Pattas were given for forest land in 2007-08, but only around 500 were given in the entire block, and so hardly anyone actually benefitted from it.

The forest land that they have been farming for many years remains “Avaidh” or “illegal land” in their own words. Now the forest department is increasingly building boundary walls around this land as well, with people’s huts also falling inside what is demarcated as “forest” land. Therefore, the main issue faced by the people in Dhalicha was dwindling ownership of cultivable land and losing control over forest land.

This did not mean that they were not aware of what was happening in Kodiyat A.

In the first meeting with the village men, an old man said that when they first came, there were “machan” or tree houses in which they would stay. There were also some kachcha houses at the time. But now the forests are gone: People cut and use them for their own purposes. When asked which people do this, they say it is the villagers themselves. To prevent this, after meeting with the district administration, the villagers formed a committee called the Suraksha Samiti in 2008 to work for afforestation.

The villagers said rainfall had reduced over a period of time, and that the need to buy expensive fertilizer and seeds, use tractors on rent at Rs 550 per hour, and the use of urea has meant that the cost of farming has risen exponentially. As a result, farming does not yield good profit. But alternative work is not easy to find. When asked why they have not sold as much land as their neighbours in Kodiyat A, the villagers said, “We already have little to eat. Why would we sell land?”<sup>51</sup>

It is not true that temptations have not come by. As the women in the village confirmed in a discussion, outsider brokers have been frequenting the village for some years. But a pitch road has not yet been built between Kodiyat A and Kodiyat B, which might have saved the land from being sold so far. The second reason why land parcels were not being sold was that the size of land parcels allotted to people there was already small. Over the next three or four generations, the land pieces had been further broken down into several very small divisions to fetch good price.

However, there was clear apathy to selling land to outsiders. As one person said during a group discussion, “They have taken so much land from Kodiyat. But if we do not sell land, they will not be able to come here. The agents come now also, but we don’t give them entry. We send them back, so they won’t be able to buy.”<sup>52</sup>

Despite the multiple factors that still protected the land in Kodiyat B, alienation was still not unheard of. Out of 95 households surveyed, 12 households said they had sold a part or whole of their land, while one household said the land had been forcefully taken away.

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<sup>51</sup> At the village meeting on 28 March, 2015. Kodiyat B, Udaipur district

<sup>52</sup> FGD with women. 28 March. Kodiyat B, Udaipur district

The total land taken away summed up to 19 bigha, while all the land parcels sold were of 0.5 bigha-2 bigha size. Out of the 12 cases, only four were sold to non-tribals, though in other cases the adivasis who bought the land did not belong to the same village, hinting at 'benami' transfer.

One reason why the survey might have underestimated the incidence of selling land was because the villagers were fighting for forest land at the time. Perhaps they feared that if they admitted to selling land they owned, the government would not allocate further land to them.

Lalitha<sup>53</sup>, a lady who runs a tea stall between Dhalicha and Kodiyat, spoke to us in detail about selling her own piece of land. She had taken the stall on rent recently and did so to sustain a family of her husband, a daughter and a son. She has very little land left, which she tills with her husband. Since she does not have access to a source of water adequate for wheat cultivation, she grows corn in the field, which she uses for her own consumption. She says that she used to own more land. She points to the plot next door, something that looks like a sprawling farmhouse with flower garden and says, "This was my land, I sold it." She sold it to someone from the city, which is all she knows about the buyer's identity. Although she sold it 4-5 years ago, no one lives there. She says now that she feels bad for having sold the land, as she could have used it to grow crops.<sup>54</sup>

When asked if she had been in dire need of money, she said that it was a decision taken by her four brothers to sell the land. She did not know about the exact process of the sale, but said the Dalal came and spoke to them about selling. Once the decision was taken by the brothers, it was quickly done.

Mohini, the Anganwadi helper at Kodiyat A is a resident of Dhalicha. She told us that neither the survey nor any amount of interviews would actually reveal how much land had been sold. She said people were scared to admit it, and more had been transferred to non-tribals than people admitted.<sup>55</sup>

However, besides alienation to non-tribals, cases of struggle over ownership and possession of land among adivasis were also prominent. One woman, Shanti<sup>56</sup> approached us in the evening at a hand pump at the outskirts of the village, as we were leaving. She said she was facing land issues but could not speak in front of the others. She called us to her house the next morning and told us that her family was having

<sup>53</sup> Name changed

<sup>54</sup> Lalitha. 27 March. Dhalicha, Udaipur district

<sup>55</sup> Mohini. 28 March. Dhalicha. Udaipur district

<sup>56</sup> Name changed to protect identity. 29 March, Udaipur district

massive fights with another over a piece of land. She complained that another family in the village claimed ownership over her land. There was constant pressure on her and her husband to give up the ownership, though the possession was already held by the other family. She alleged that her husband's brother was pressurised so much that he eventually committed suicide. And now she and her husband find it difficult to live in the village. There are members of the other family who roam around their hut with open daggers or weapons to terrorise them. It is a protracted dispute between two tribal families, of whom at least the former sees the land as a commodity or property.

The traditional notion of land as "mother" has been hampered. Dhalicha has not seen as much land alienation as Kodiyat, but at least a few people know the lurking danger, and a few see an opportunity in it for the future. While the first group are scared they will have to give up land, the second know that the time the brokers enter will be the time to change land ownership for maximum gain. The process of alienation has begun before it is apparent.

### **3.3 Connecting the dots on processes on alienation**

Clearly, Kodiyat A and Kodiyat B present different vignettes of the processes of land transfers and alienation. Whilst Kodiyat A's is a story of poor, unmobilised adivasis increasingly coming under pressure from the land/business nexus to sell off land, Kodiyat B's is a more nuanced story. The specific location of the village in a remote, forested pocket, Government action to provide *pattas* to residents, and the villagers' decision to undertake collective action to protect their rights has helped to contain the alienation of land to some extent.

## **4. Impact of land alienation on tribal communities**

In the following section, we try to understand how loss of land has impacted the lives of adivasis and made changes to the local ethos and milieu, in the context of the unrelenting forces of modernization rolling into lives of tribal communities. We look at the impact in terms of economic changes, changes to social and economic relations, and to culture – what adivasis consider their core identity.

The impact of alienation of land was more prominent on people from Kodiyat A as most of them had sold their land over the past few years. The women, in a group discussion in the village, said that when they first lost their land, there was work to build the roads and hotels around. They would be paid Rs 200 per day and sometimes even more. But after three or four years, the hotels were built and work was shrinking. Now they did not have

work, and NREGA work was also dwindling. The women—who have traditionally worked—mostly stay at home now, and the men go out into the city to work in construction.

The second impact is often on the status of the men who lose their land. Sushant<sup>57</sup> had sold his land to a buyer from the city who he had not met before he sold the land. He received around Rs 25000 for his land, where a boundary wall was quickly built and a farmhouse followed. We met Sushant standing on his own land, now working as a watchman for the farmhouse.

However, the feeling of loss, of shrinking forests and changing lifestyles, is not the same among the old and the young.

The young men do not want to get into farming and prefer jobs in the cities. Nilkanth's father, the head of the village panchayat, said that since his retirement from his government job, he has worked as a driver. He still comes home every evening to oversee the work at the farm as the son refuses to do it.

The older generation laments the changes, as was clear from a village meeting in Dhalicha. An old man said, "Yes, they have changed quite a bit. They don't know how to plough the land, nor how to sow seeds. They don't even take the cattle out. They don't know our traditional medicines or anything. They like it a lot: roaming around on the bike and using their phones. They do not have knowledge about

*A special mention needs to be made of how particularly vulnerable are women in relation to land and its alienation. Women in Dhalicha, in a group discussion, put this point across most poignantly. "Women work on the farm and in the factory. The woman works more than the man. They work at home, on the field, taking care of the child. Man gets Rs 300 for a day while the woman gets Rs 150-200. It feels bad, but what will you do? Work is from 9 am to 5pm. We wake up by 4 am and finish work in the household." They said they were hearing the idea of legal rights on land or the house for women for the first time, and did not think it would come true. Among women, those particularly vulnerable were single women, when the husband's brothers or other male family members wanted to take control over land. This takes a very ugly turn in states like Rajasthan, as single women are often branded as 'dayan' or witch and either evicted from the village or killed to take possession of her assets. The Rajasthan Human Development Report (2007-08) published by the Rajasthan government accepts this: 'Property disputes have emerged as one of the chief causes for branding women as witches (dayans). One of the ways to grab fixed assets and property of a woman who is*

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<sup>57</sup> Name changed

agriculture and or anything to do with farming.” This brings us to a final observation: understanding class differences among the adivasis is necessary in order to understand their reality. The one class that might have more literate members, or a government servant or school teacher, yielded enormous power and were as corrupt as the bureaucracy itself. They maintained their hegemony by throwing the occasional meal (the Mukhya invited all the villagers to a Navaratri feast while we were in the village), but did not act as protectors. In fact, the Mukhya and his sons were actively participating in the corruption and manipulations that alienated the adivasis from their land.

## 5. Historical Setting

How do findings on extent, process and impact of tribal land alienation in Udaipur district reflect on tribal land alienation in the state and country as a whole? How do we explain the findings in terms of their import for policy relating to tribal land alienation and well-being? In this section, we look at the historical context of Udaipur and of Rajasthan more broadly.

The Udaipur Palace, a major tourist destination in the city, showcases huge paintings and sculptures of Maharana Pratap with two armed men on both sides, one a Rajput and the other a Bhil. The local guides will tell you that it showed that the upper castes and Adivasis formed two pillars of Rajput rule. However, the reality of Rajasthan’s tribal areas has not been one of equality and dignity, especially when it came to control over resources.

Historical documents show tribal chieftains used to rule much of Rajasthan before the Rajput kings took over the territory. The People’s Land Series, one of the only state level studies on tribal land alienation in the state, elaborates, “The Meenas ruled the areas of Jaipur, Ajmer, Shahpura, Alwar, Tonk and Bundi, and the Bhils in Banswara (Bansia Bhil), Dungarpur (Dungria Bhil), Kushalgah (Kushia Bhil), Kota (Kotia Bhil).”<sup>58</sup> When the Rajputs began ruling Rajasthan, they had appointed Jagirdars in the state who collected taxes and covered even the Adivasi areas. The Rajputs took over the valley areas, and the Adivasis had been relegated to the hills and forests, paying their taxes in kind and in ‘*begar*’ (unpaid labour). British rule did not change much for adivasis here,

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<sup>58</sup> Cadāṇā, B., Gurjara, M., Shrivastava, G., & Sharma, A. (n.d.). (2014) *Rajasthan*, Aakar Books

since Mewar was not completely annexed. A land settlement was undertaken in 1884-86 when revenues were again determined for the state.<sup>59</sup>

Most of the land deeds, despite being in the names of upper castes were cultivated by adivasis; also no papers or deeds were issued to adivasis who cultivated land after clearing forests. As the People's Land series explains, "In most cases, there were no formal *pattas* issued; also, subsequent to clashes between the sovereign and the *jagirdars*, conflicting land deeds were issued, at times by those with no authority to issue them. These led to the denial of titles to actual cultivators at the time of land settlement... In 1942, the Maharana of Mewar declared that the Adivasis living in the forest had cultivation rights to that land by decree of '*Tamra Patta*'—one '*patta*' or document per village, e.g. Pai village in Girwa Block has such a document. But after Independence, the new government of Rajasthan did not consider or recognise this right to land."<sup>60</sup> This set in motion the process of alienation, since only tenuous rights existed. The deprivation became worse when in 1953 Rajasthan government declared all land with forests on it as government forest land.<sup>61</sup> The Forest Rights Act gave some breathing space to the adivasis, giving them rights to be issued *pattas* for land they cultivated before 13 December 2005. However, implementation of this Act has been a major concern as the experience in Dhalicha showed.

As the SAIP land series report says, "Based on the latest government statistics, more than one lakh tribal families are directly dependent on forest land and indirectly all rural tribals are dependent on forests which is 12% of the state's total population." But the state has not been able to adequately address the concerns about issue of forest rights *pattas* in the state. There has been incorrect recording of information about revenue land and forest land plots, which eventually deprives the tribal of the ability to claim individual record of rights to land. The report further elucidates, "As per data of the Tribal Development Department, Udaipur, till 30 September 2013, 69,686 claims were submitted to Gram Sabhas of which 30,770 claims (42%) were rejected and in 33,696 cases titles were issued. But the titles issued did not exceed two *bigha* land which is insufficient for the livelihood of people and violates the Forest Rights Act. There has also not been any progress on recognising community forest rights. Only 60 titles have been issued for claims under Section 3 (2) for one hectare land for development work of

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<sup>59</sup> Ibid

<sup>60</sup> Ibid

<sup>61</sup> Rajasthan Forest Act. Even land with more than 30 degree slope was automatically seen as forest land, and the tribals were worst hit as a result of this.

providing basic amenities like; hospital, anganwadi, anicut, canal, electricity line, community centre, school for the village. Hundreds of community rights claims were prepared by the people but these are not disposed of. On the other hand, the Forest Department is constructing permanent walls on community land and taking it into their possession, denying individual and community rights over the lands by preventing access to the lands.”<sup>62</sup>

## 6. Legal framework and role of administration

39 laws relating to land have been passed in Rajasthan between 1951 and 2006, despite which alienation has gone on unhindered. The most important of these is the Rajasthan Tenancy Act of 1955, which provided land ownership rights to all tenants of various categories and also protected adivasis from alienation. Transfer of land to non-tribals or sale to non-tribals was prohibited, and leasing out or subletting the whole land of a tribal was also not allowed. In case there was infringement on tribal land under section 183B of the Act, an enquiry would have to be completed within 3 months and the issue resolved. However, this did not stop land acquisition under the land acquisition and forest laws, which went against tribal interests.

The other legal provision that went against the adivasis was that there are no apparent restrictions on a tribal selling his land to a non-tribal if he has first converted the land use to commercial or residential purpose. Also, the government by law allowed hundreds of acres of common land to be converted for bio fuel industry.<sup>63</sup> It also allowed wasteland to be leased out to private or government enterprises for up to 20 years and no limits were placed on the extent of land the individual or enterprise could hold. The Tourism Policy of 2007 also ensured that star categories of hotels and heritage hotels would be extended help with land allotments by the government. The government not only allows conversion of agricultural land into non-agricultural land, a new township policy in 2007 said that hotels would be exempted from paying fees for such conversion.<sup>64</sup> There was no restriction practically for a tribal to transfer land to a non tribal if he had himself converted land from agricultural to urban or commercial purposes, which was seen in villages where research was conducted for this report.

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<sup>62</sup> Ibid

<sup>63</sup> The Rajasthan Land Revenue (Allotment of Wasteland for Bio-fuel plantation and bio-fuel based Industrial and Processing Unit) Rules, 2007

<sup>64</sup> <http://library.fes.de/pdf-files/bueros/indien/07177.pdf>

The Rajasthan Revenue Decisions 1985, the judgment in the case of Jagannath vs State of Rajasthan confirmed this, especially if the land was close to urban areas: “there is no restriction on land holders, whose land is converted from agriculture purposes to non-agriculture purposes, according to the rules, to further transfer the same converted land to third persons.”<sup>65</sup>

A new law in 1992 also allowed the transfer of tribal land from agricultural to non-agricultural usage for residential, commercial or industrial area, salt manufacturing or public utility, after which they could sell to a tribal or a non-tribal.<sup>66</sup> To stop illegal transfers, the government in 1988 released a notification to attach photographs of both buyer and seller to the land trade documents. However, the presence of both the parties in the registrar’s office is still not mandatory.

Clearly the legal framework, as it has rolled out in the state, has not been in favour of protecting tribal land rights – this is despite laws preventing tribal land alienation that Rajasthan, like all Fifth Schedule states, has in place. As we saw in our field research, market forces and considerations of modernization, among other factors, have stumped those of protecting tribal rights to their land and resources. The Rajasthan Panchayat Act of 1999 was formulated to align state laws with PESA though it was passed only in 2011. Rajasthan was second only to Himachal Pradesh in enacting this law. But this has not had any evident impact on restricting land transfers—at least not any we saw in our field research.

## 6.1 Administrative Factors

What are the administrative factors at play that potentially facilitate alienation, despite the existence of restrictive laws? Enactment of laws is only the first step, and implementation and the role of the administration are often of higher significance when it comes to protecting adivasis. Not only has the bureaucracy failed to protect the adivasis, they have often aided the process of land alienation. Land records have not been maintained well, forest land rights have not been given to adivasis, records of ownership have not been maintained or issued systematically.

The villagers often complained that they hardly ever saw the Sarpanch in the village, and even a Block Development Officer or anyone from the higher bureaucracy had not visited

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<sup>65</sup> SAIP land series report Cadāñā, B., Gurjara, M., Shrivastava, G., & Sharma, A. (n.d.). (2014) *Rajasthan*, Aakar Books

<sup>66</sup> Rajasthan Land Revenue Conversion of Agriculture Land for Non- Agricultural Purposes in Rural Areas Rules, 1992

the village in the longest time. The head of the village in Kodiyat A was a non-tribal himself. The most crucial role in land transfers is often played by the Patwari who maintains and corrects land records in the village. Villagers had confirmed that the Patwari did not visit the village unless called for a specific verification and often would accept bribes to get “work done” for buyers. The agents often contacted the Patwari directly, and the process was completed without knowledge, consent or participation of the tribal landowner, as has been explained in the discussion of Kodiyat A.

The tribal legislator we met told us that lack of education caused adivasis to be cheated of their rights in most cases. He blamed some adivasis for participating in the process of alienation from land of their kin, by acting as brokers. He said that even tribal leaders were misusing their powers by grabbing land themselves and helping the process of alienation. “The worst affected here are villages closest to the city of Udaipur. The brokers keep an eye on land with multiple owners, and pay few of them some cash to sign off the land. They also get people to sign 10 *bigha* on paper by convincing them they want just one *bigha*. Not only are people landless, they are becoming homeless as well.”

Motilal Gomti<sup>67</sup> has been the Sarpanch in Seesarma for five months now. He echoed the concerns of the MLA, saying the non-adivasis often exercised actual authority even in those areas where seats were reserved for adivasis, since they were illiterate and did not understand what they were signing on. Neither the Sarpanch nor the MLA had never heard of PESA and could not explain the laws that could be applicable to safeguard adivasis. Gomti said the revenue officer was heavily involved in all land transfers. “The Patwari (revenue officer) has the support of political heavyweights in the area. If we tell him of any problem, he does not listen. He scares us, saying if you go against XYZ person, it will be a problem for you.” We asked if they were trying to scare him, and he said, “What else can you call this? If I ask him to meet for some work, he asks, are you alone or you have someone with you. This is the condition of the STs here, they do not want me to bring someone who has knowledge.”

While speaking about sale of lands through proxy, he said, “Most non-tribals buy through proxy, so it will not show on records. We don’t know what the second tribal takes. But this second tribal takes commission on it as well for using his name and documents. The registrar sits at the Tehsil office, one has to go there and pay fees to convert tribal land into farm house. And they have to renew it, which is generally not done.”

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<sup>67</sup> Motilal Gomti, 30 March, 2015. Udaipur city.

He said, at his level, the administration was helpless, as he was scared to even go and tell the MLA what was going on. He knew powerful people were involved and said that he did not know how to stop the big brokers. In a meeting with us, the District Collector accepted that land alienation was clearly evident in areas adjoining the city, though he did not say what the administration was doing to stop it.

There are other issues, besides poor enforcement and poor tribal awareness about rights. The legal framework has to be assessed in context and in alignment with the administrative machinery as a law itself is a political act and not free from judgments and presuppositions. Despite the presence of so many laws and a strong Tenancy Act, adivasis have particularly suffered as the Rajasthan Tenancy Act presupposes protected tenure rights of adivasis. However, it ignores the traditional hold over common lands that the adivasis had enjoyed. A PUDR report on Rajasthan and land issues faced by adivasis points out that the legal framework is incomprehensible to adivasis, and incompatible with the existing situation of absence of any form of written records, except for land tenures granted to tribal chiefs. The settlement records also do not reflect any records of tenancy or sharecropping, therefore making it almost impossible for adivasis to legally hold on to their lands. “Not only does this provide a basis for collusion of sections of the adivasis with the established vested interests, but the process of differentiation set in motion by the courts and the market-place accentuates tensions within tribal communities.”<sup>68</sup>

The unjust application of laws and administrative action leading to dispossession of adivasis is not new. It began with the survey and settlement operations rolled out in late 1950s. Land was allotted to outsiders, while often land allotted to adivasis had wrong information mischievously written into it. The settlement did not cover area outside the Land Ceiling Act, and the actual area of land parcels were not measured, leading to faulty documentation. These practices, as we saw in our research, have had serious import for adivasis.

The number of foreign tourists was 0.425 lakhs in 1971 which rose to 9.72 lakhs in 2004, and is increasing. Tourism not only encroaches on land, it creates pressure on forest resources like wood and uses large amount of water that makes farming even more difficult for adivasis. Total workforce dependent on forests in Rajasthan stands at 65.9 percent while for adivasis, the number is much higher at 83.1 percent. Udaipur also has

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<sup>68</sup> The story of Hadmatiya: Adivasi struggles in South Rajasthan. (1991). New Delhi: PUDR

the highest forest area in the state. With a higher attachment of tribes with land and forests and their dependence on it, pressure on these resources make adivasis particularly vulnerable.

## 7. Tribal struggles for land and dignity

What of tribal mobilization in Rajasthan for land rights, and their dignity? How have they been, and have they had an impact on outcomes for adivasis in the state? Like most states in India, Rajasthan has seen rich traditions of tribal struggles and movements against the administration to protect their land, resources and culture. One of the first movements dates back to the early period of colonial rule when, after a disastrous famine in Chhapania in 1899, Govindgiri, a Banjara leader tried to instill faith and self confidence among the Bhils and formed the Sam Sabha in 1905. It cannot be denied that a Sanskritisation of Bhils had started among the adivasis as early as this period.

The Mangarh revolt under the leadership of Govindgiri led to the death of almost 1500 tribal people. This was followed by the Bhil and Mer revolts (1818-21) against imposition of taxes by the British to bring the adivasis under their control. A similar but almost decade-long revolt followed among the Meenas in Udaipur against both the Indian princes and the colonial masters. Repeated rebellions against the new order also continued among the Bhils from 1818 to 1860, and again erupted in Banswara in 1872-75. VK Raghavaiah writes, “The tribals too initiated struggle to safeguard their honour, to protect their cherished freedom and get redress against moneylenders, the zamindars, and other parasitic land holders, who tried to deprive them of all they had.”<sup>69</sup> The survey and settlement operations after Independence, as we saw, were weighted against adivasis.

Allotment of forest land in names of adivasis continued to be the biggest problem for the adivasis in the independent Indian state, and there have been several rebellions in recent times against the state. One such case in point is the Forest Land People’s Movement (FLPM), which was launched in 1995 in Udaipur. The government of Rajasthan had acknowledged less than 20 families who had lived in forest areas in the state before 1980, and decided every other tribal family in forest area was an encroacher. The adivasis faced a challenge to break the perception that they were the destroyers of forests. After FLMP’s sits-ins and protests, the government, without carrying out

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<sup>69</sup> SAIP land series report Cadāṇā, B., Gurjara, M., Shrivastava, G., & Sharma, A. (n.d.). (2014) *Rajasthan, Aakar Books*

surveys, came up with a list of 5395 families. FLMP rejected this and carried out its own surveys and started providing the actual numbers to the tribal commissioner. It also tied up with 12 states in the country and enlarged its scope to protect tribal land. SAIP report says, “In 2003 nearly 17,000 Adivasis in Udaipur, Banswara, Chittor, Dungarpur, Sirohi, Pali and Rajsamand districts, who have been in possession of forest land for generations, and whose claims had not been verified by the Forest Department, began to individually present their claims to the Collector of their respective districts. Nine thousand people submitted claims to the Collectors in August 2003, so that action could be taken to establish their right over the land.”<sup>70</sup> But these struggles have only had limited impact. As the case in Dhalicha showed, villagers are still fighting to legalize their possession over land, and are often rendered helpless by a hostile administration. Clearly the movements have—for a variety of reasons—not had the impact they potentially could have had.

## 8. Conclusion

Very little data is actually available on individual alienation of land in Rajasthan. However it can be concluded that the state’s record is unimpressive even in resolving cases that have been filed with it. In 2007-08<sup>71</sup>, 2084 cases of land alienation had been filed covering 6615 acres of land out of which only 187 cases have been decided in favour of adivasis.<sup>72</sup> This failure, in conjunction with other factors inimical to adivasis, has had disastrous consequences. Tribal communities in the state have remained at the periphery of the state and its development policies. The Tribal Development Framework refers to the 2002 BPL survey, which said “the state has a population of 15.28% to its total population recorded as those living below poverty line, less than the national average at 26.10%. Moreover, as per the World Bank’s 1997 India Poverty Assessment Report the state’s rural poverty was reported as 47.5% as against the national average of 36.7% in the country. Though, regional imbalance in growth and development is significant in the state of Rajasthan. The state has high concentration of poor in the resource-poor regions largely occupied by the Scheduled Tribes. Among various causes, such regions have lacked severely in productive land, irrigation facilities, industrialization, skills and higher incidences of illiteracy.” While the health index for the state stood at 0.558 in 2008, that

<sup>70</sup> SAIP land series report Cadāñā, B., Gurjara, M., Shrivastava, G., & Sharma, A. (n.d.). (2014) *Rajasthan*, Aakar Books

<sup>71</sup> Ministry of Rural Development, Government of India, Annual Report (2007-08)

<sup>72</sup> *India human rights report, 2008*, (n.d.). New Delhi: Asian Centre for Human Rights

for tribal-dominated districts like Banswara and Dungarpur lay between 0.2 and 0.4. Tribal land alienation accompanies every story of tribal deprivation.

Land alienation in the state is experienced more intensely by places close to the urban areas and district headquarters<sup>73</sup>, as is seen in the case of Kodiyat A, while it is beginning to emerge slowly in the interior regions as well. Causes for alienation of tribal land are manifold, as we saw—including indebtedness of adivasis and inability to repay loans either to moneylenders or institutions. Sometimes loans are sanctioned in the name of adivasis with non-tribals actually receiving the funds. Land acquisition always forms a major part of land alienation: whether for dams being built (for example, Kalibor dam, Som Kagdar dam, Tidi dam), to form SEZs or industrial complexes, or to give away to private companies—without any rehabilitation for the adivasis displaced. To this can be added the effects of urbanisation and tourism creating an enabling environment for land alienation. Rural areas which are close to urban centres are converted for residential purposes and transferred to the names of non-adivasis, as we have seen in case of Kodiyat A and Dhalicha. They are turned into farmhouses or even to build private enterprises like hotels. “About a third of the land being converted is tribal/SC land. However, it is reported that the subsequent transactions following the conversion are in violation of Section 42-B of the Rajasthan Tenancy Act and the Registration Act and the proceedings are off the record. The recent amendment of land Act Section 90 is a great contributor to land alienation as it grants acquisition procedures to non-tribals from the tribals.”<sup>74</sup>

In Udaipur district especially, increasing urbanisation and growing pressure of tourism has led to a battle for land and resources between adivasis and non-adivasis.

## Recommendations

1. Consumption loans must be extended to adivasis through institutional mechanisms to curb the practice of individual moneylenders, and reduce mortgaging and eventual alienation of land.

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<sup>73</sup> Pandey, B. (2009). Women's alienation: Land less development. New Delhi: Friedrich-Ebert-Stiftung

<sup>74</sup> SAIP land series report Cadāñā, B., Gurjara, M., Shrivastava, G., & Sharma, A. (n.d.). (2014) *Rajasthan, Aakar Books*

2. District collectors or SDOs must be the final authority approving any transfer of agricultural land to non-agricultural use, which facilitates tribal to non-tribal alienation.
3. A survey must be conducted to see the extent of land already converted close to urban areas, and remedial measures must be undertaken to restore land to original owners.
4. A survey of all agricultural land must be undertaken to issue individual record of rights under FRA at the earliest.
5. No permission for tourism hubs or hotels/resorts must be granted in areas under the Fifth Schedule. Wherever such constructions have already been made, adequate compensation and rehabilitation for affected tribal families must be arranged at the earliest.

## **Chapter 3**

## **Maharashtra**

## Introduction

Maharashtra is the second largest state in India due to a high concentration of population (112, 374, 333 people) which constitutes 9.28percent of the total population. According to the 2011 Census, the literacy rate of the state is 82.9 percent. In terms of Scheduled tribe population as well, Maharashtra is the second largest state with a total population of scheduled tribe of 10510213, which constitutes 9.4percent of the total population of Maharashtra and 8.6 percent of the population of STs in India according to 2011 Census<sup>75</sup>. Nandurbar district has the highest population of STs in Maharashtra with a 69.3percent ST population, followed by Gadchiroli district (38.7percent), Dhule district (31.6percent) and Nashik district (25.6percent). There are around 47 tribes in the state which fall under the scheduled tribe category with Bhil, Gond, Mahadev Koli, Warli, Kokna and Thakur constituting a majority of this population. Apart from this, Maharashtra also comprises of the Bhil, Katkari, Madia-gond, Pardhi and Kolam tribes<sup>76</sup>

### 1.1 District and Villages chosen

Initially the study was planned in Thane district, one of the largest districts of Maharashtra. However, on 1<sup>st</sup> August 2014 the state government announced the formation of the 36<sup>th</sup> district of Maharashtra- Palghar, which was then selected as the site of the study. The formation of Palghar district is the outcome of a 25-year long struggle. The block and villages chosen for the in-depth study were suggested by our local partners, Adivasi Ekta Parishad, due to their presence and influence over tribal villages. AThe uniqueness of tribal movement and its impact on the Palghar district and specifically in Damkhind village is a major reason for the selection of the village. The outcome of the movement was the success in resistance against land grabbing.

Damkhind village was purposively selected because in this village land was not alienated as a result of a successful movement by Adivasi Ekta Parishad resisting the land grabbing process. The second village selected for a comparative study is Netali, where land alienation had taken place and the Sangathan's influence was weak among tribal populations and there was a lack of resistance against land alienation. While Damkhind

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<sup>75</sup> Xaxa, V. (2014). *Report of the high level committee on socioeconomic, heath and education status of tribal communities of India* (pp. 1-431, Rep.). Delhi, Delhi: Ministry of Tribal Affairs Government of India

<sup>76</sup> W. (n.d.). Maharashtra Tribals. Retrieved January 31, 2016, from <http://www.discoveredindia.com/maharashtra/maharashtra-tribals.htm>

village is located close to the highway, but at a distance from the city, the village Netali is situated closer to the block headquarter and the city. The village Netali is located near the National highway connecting Mumbai and Ahmadabad. Due to its prime position, land belonging to this village became very valuable and an important target for land-grab. The attempt to look at the experience of alienation comparatively in these two villages brought two different perspectives to the study.

## 2. Extent of tribal land alienation

The Maharashtra state did not keep information of caste and category on land records. Some villages have caste data but it is not continued on a yearly basis. It was therefore difficult to analyze land holdings by different castes and communities.

The Palghar district administration failed to provide the data of 10 villages. Through extensive follow ups, the present land records of the villages selected for in-depth study were acquired. To study the difference between possession and ownership of land, only a comparison of the Participatory Land Survey (used as a tool for the study) with the present land records was available to show the difference between land holdings on paper and actual possession of the land. The calculation of the extent of land alienation in the two selected villages has been possible by evaluating PLS and present land records.

### 2.1 Extent of land alienation in Damkhind village (PLS)

A Participatory Land Survey (PLS) was conducted with the participation of each tribal household member of village. In this survey, the position and ownership has been marked with the consent of people. Keeping in mind the power dynamics of the village, the participation of some persons (such as political leaders, government officials, outsiders and brokers) was avoided to prevent them influencing the study and the outcome.

**Table no 1.1**  
**Land ownership on document and possession on ground in Damkhind <sup>77</sup>**

Damkhind: land ownership on document	Area In hectare	Damkhind: possession of land	Area in hectare
Tribal	41.71	Tribal	38.37

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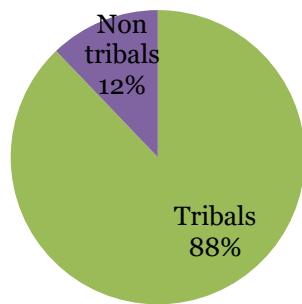
<sup>77</sup> Above table is the finding from field study and 2014 year land record analyses

Non tribal	5.77	Non tribal	6.13
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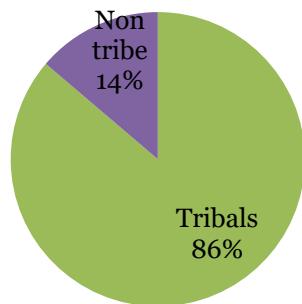
As illustrated, the ownership of land by adivasis on document is 41.71 hectares and by non- tribal is 5.77 hectares, whereas possession by adivasis is 38.37 hectares and by non-tribals is 6.13 hectares.

**Proportion of Land Ownership on paper vis-à-vis Actual Possession of Land<sup>78</sup>**

**Table .1.2 . Land ownership on document**



**Table 1.3 . Present land posession: PLS**



<sup>78</sup>This table is the finding from participatory land survey and 2015 year land record analyses

### 2.1.1 Findings:

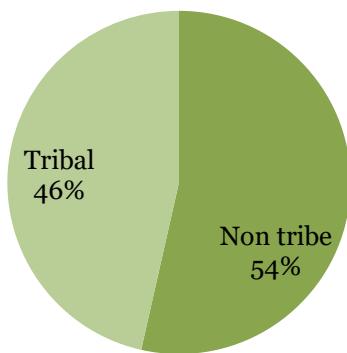
1. Table 1.1 shows that the tribal population in Damkhind village has 88percent land holding on document
2. Similarly non- tribal holding 12percent land holding on document.
3. The possession of land by tribal population is lower by 2percent
4. Non- tribal possession of land is higher by 2 percent, compared to ownership on document.

### 2.2 Village Netali

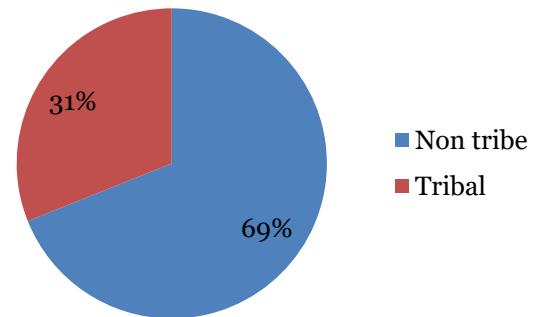
The Participatory land survey in Netali was more difficult because the sarpanch and upper caste contractor joined the survey mid-way. The tribal community mentioned after the survey to have been threatened by them and therefore they could not speak openly during the PLS.

**Description of total land holding of 45.52 hectares in Netali village <sup>79</sup>**

**Table no 1.4 ownership on land record**



**Table no 1.5 . Posesion of land :PLS**



As illustrated above, the ownership of land on record of tribal community in Netali is 46percent and of non- tribals is 56 per cent. According to the PLS, the possession of land changes here to 31 per cent amongst tribals and 69 per cent amongst non-tribals.

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<sup>79</sup>To analyze ownership on record: used 2015 land record form collector office Palghar and Participatory land survey details.

**Table no 1.6: Possession of Land in Netali Village based on PLS**

<b>Ownership on land</b>	<b>Area in hectare</b>	<b>Possession on ground</b>	<b>Area in hectare</b>
Non Tribal	24.8	Non tribe	31.38
tribal	21.52	Tribal	14.14

The PLS data shows an increase of non- tribal possession of land by 15percent and an equivalent decrease of tribal possession of land by 15percent. The non- tribal possession of land increases from 24.8 hectare to 31.38 hectare, i.e. by 6.58 hectares, and decreases for the tribal community in the same proportion.

## Processes

### **3.1 Village Damkhind: Understanding land alienation in Damkhind village**

Damkhind is a small village in Palghar block, in which most of the almost 140 households are of tribal people. Out of the 596 individuals living in the village, the percentage of the tribal population is more than 76percent (Census 2011). The in-depth study and interviews indicates that the tribal community of this village has small pieces of land holding. The nature of their occupation is seasonal. They are engaged in agriculture during the rainy reason, while the rest of the year they migrate to Palghar and Thane as contract workers or construction laborers so as to sustain themselves.

They explain that employment in bigger cities like Thane and Mumbai requires higher educational qualifications and technical skills, as a result of which many of them struggle to get a job.

Since more than half of the population of the village is tribal, there is little conflict in the village over political issues and support to political parties. During the election process, the Sangathan supports tribal in their attempt to get elected and work for their community, helping to represent 'tribal' voice at the local level. Kaka Dhondade, a senior leader of the Adivasi Ekta Parishad, stated that adivasis of Damkhind had a history of exploitation by baniyas and parshi people in colonial times, and that in post-independence India, they remained in a vulnerable situation. Damkhind's entire land was grabbed by the Parshi and Baniya people following which the adivasis of these

villages ran a movement against this exploitation. Nitin<sup>80</sup> and Vikas<sup>81</sup> ( Both names changed) mentioned in the Focused Group Discussion that before independence Baniyas used to give 1 kg of rice or oil in return for a piece of land when a tribal did not have money. At some point, they said, many of us gave land to get a one- time meal. It happened because the adivasis did not understand they were being cheated, and it was their extreme poverty and illiteracy that forced them into this state. This was how many adivasis lost their land. After Independence, the Sangathan took the initiative to remove these people who grabbed land and were unwilling to return it. All the residents of the village participated in the movement and the land was returned to its original owners. The movement was led by the Adivasi Ekta Parishad (then known as the Bhumi Sena) and its widely respected leader Kaka Dhondade<sup>82</sup>.

Sunita,<sup>83</sup> a member of the Sangathan, informed the researchers that ever since Bhumi sena (Now Adivasi Ekta Parishad) movement was initiated by Kaka, it has worked a lot to counter the exploitation from outsiders and state policies which are against the tribal community. At one point, a bottling company that had been banned by United States of America was being built illegally in village. After a lot of struggle by Sangathan and villagers and violence by the police, a case was filed in the court. The high court gave a decision in favor of the tribal community. Even after the Court judgment, the company offered a compromise, following which there was continued violence against the adivasis. It was only through the constant struggle of the Sangathan that the land was restored. Police is often used as an agency to weaken the strength of the Sangathan. At present, false cases have been filed against 21 active members of the Sangathan.

Two households have lost land in the village. Vikas, (name changed) stated interview that these tribal households don't participate in the Sangathan and do not conform to the common understanding of the villagers, that none of tribal will sell their land. Instead, this tribal family sold their land. During an FGD with the men of the village, Rajaram<sup>84</sup>(Name changed) mentioned that the two households have sold the land to a church. This transaction came about since the deal was kept highly confidential until it was finalized, and others came to know of it too late. The Sangathan and other people are now insisting that they take back the land.

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<sup>80</sup>Interaction of the field researcher with members of the Sangathan on 8<sup>th</sup> February 2015 at Village Damkhind

<sup>81</sup>Interaction of the field researcher with members of Sangathan on 8<sup>th</sup> February 2015 at village Damkhind

<sup>82</sup>Interaction of the field researcher with senior leader of Sangathan on 9<sup>th</sup> February 2015

<sup>83</sup> Interaction of the field researcher with member of Sangathan on 11 February 2015

<sup>84</sup>Interaction of field researcher with resident of village on 7<sup>th</sup> February 2015

The district administration and the police do not respond to a single atrocity that was inflicted upon the adivasis, and for meeting even the basic needs the adivasis need to struggle. Kaka<sup>85</sup> informed us that they haven't won a single case in the court in 50 years of fight against land grab. As a result, he has completely lost faith in the court. Official documents and procedures have instead instilled fear and resentment in this community. A statement made by Kaka during our hour-long discussion reflects this "***Amhi kagdavar vishwas nahi thevat nahi, shabdarvar vishvas thevato, kagdavarch vishvas ghadi ghadi badalato, mansala nakarat nahi, kagdala nakarato***" (We don't trust promises on paper, we trust words that are spoken by humans. We don't neglect the human, we neglect the paper.)

### **3.1.1 Process of Alienation in Damkhind Village**

Damkhind has a history of resistance against land grab through Adivasi Ekta Parishad. It is an example of why land alienation may not take place even if a village is well-connected and close to a highway which connects Mumbai to Ahmadabad and other major cities.

The village has a very different story from others in Maharashtra, with a strong resistance to upper-caste dominant groups who were trying to gain control over the tribal land. Our information about this is mainly drawn from interactions with the local people and the leader of the Adivasi Ekta Parishad, Kaka Dhondade. Damkhind is located between two highways of Ahmedabad -Mumbai and Mumbai- Palghar which caused a steep increase in the demand for and price of the land. However, the transaction of land is prevented because of the awareness amongst the adivasis initiated through the Sangathan, further preventing indebtedness amongst adivasis. During an interview one old woman, Ziparibai<sup>86</sup> (name changed), said "At every stage we take help from the Sangathan. For instance, we created a self-help group that provides us with money when we need it urgently so we don't need to sell land. The Sangathan in various ways seems to collectivize risk, strengthening the tribal community and its rights over land".

The AEP continues to have a strong influence on adivasis in and around Palghar district, reinforced by the location of their main office inside the village. According to Doctor<sup>87</sup> (name changed) this was again established in 2008 when a company was planning to

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<sup>85</sup>Interaction of field work researcher with senior tribal leader of Sangathan on 9<sup>th</sup> February 2015

<sup>86</sup>Interaction of field researcher with resident of village on 13<sup>th</sup> February 2015

<sup>87</sup>Interaction of field researcher with member of sangathan on 8<sup>th</sup> February 2015

establish a plant in the village due to its proximity to the highway. As in the past, the entire village came together to resist the construction of the factory in this village as it comes under the Fifth Schedule area, yet the consent of the villagers was not taken as per law. The people met with success as the project was scrapped. Doctor attributes the outcome to the fact that villagers understood the importance of land when they stayed connected with the Sanghatan and collectivize against exploitation from outside.

Doctor<sup>88</sup> in his interview said that, there is no land alienation in the village Damkhind. But in other villages, land is not taken directly. It is taken through young, slightly educated 'Dalaals' (middlemen or agents) they manipulate people. They will politely ask them whether they have papers of the land in their name. If not, then they claim that the land does not belong to the adivasis. They threaten them with false cases or hassles in paper work and legal work. A fear is created in the minds of tribal people against laws and paper-work that is alien to their culture. Another important reason for getting easily manipulated to sell the land is an extreme level of economic deprivation, which causes them to sell their land at a throwaway price. Alcoholism is another factor by which they are lured into the sale of land, by offering them money for alcohol.

The tribal identity is deeply entrenched in their livelihood and natural resources, i.e., 'Jal, Jungle, Jameen' (water, forest and land), which is now being taken away from them. Many feel a sense of loss of identity with the increasing merging of cultures. Kaka<sup>89</sup> mentioned that they were able to secure land but could not secure their culture due to a constant urbanization. The Christians and the Hindus started to convert adivasis into their religion, which further led to the erosion of tribal culture and practices. For instance, Ganesh puja, Durga puja and Christmas were not part of the tribal culture but are now being celebrated due to mixing of cultures and migration of population from other states so as to work in the nearby industries.

The development work for urbanization of cities caused a dilution of the tribal culture and depletion of their resources, further enabling land brokers to come in and exploit the adivasis by grabbing their land at cheap rates. The interviews indicate that dilution of the tribal culture is a major factor in tribal land alienation.

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<sup>88</sup>IBID

<sup>89</sup>Interaction of field researcher with senior leader of sanghatan on 9<sup>th</sup> February 2015

### 3.1.2 Impact on tribal life

As village has not seen land alienation cases since last 30-40 year but the impact of land alienation on tribal lives can be seen in various forms. As the data shows, Maharashtra adivasis have very little land holdings, which make them dependent on the market and on labor work. Malnutrition among adivasis in Thane and Palghar district is high. The tribal community in Damkhind claims that such was not the situation earlier since they had their own resources, but in the present situation, all their needs are dependent on the market. All the resources have been snatched from the adivasis in early 1970s<sup>90</sup>.

The basic assumption of society and government is that if land is not alienated then there can be no other issues, but that is only partly true. During the in-depth interview, Kaka<sup>91</sup> said that while it's true that they prevent other people from entering this village and alienating land from the tribal, another concern is that the entire tribal community is being alienated from its culture.“The children don't know their mother tongue, the community celebrates newer festivals more than their traditional ones, the folk art, songs, dancing, marriage ritual, farming practices, everything is changing, and without these a tribal is not a tribal”. Another participant in the FGD, Vikas<sup>92</sup>said that the forms of violence have also changed. Earlier, there were no rape or sexual abuse cases within the tribal community but it is now a reality. Now, the food habits and other drinking habits amongst adivasis are also changing. Docter (name changed), in an interview said that dividing adivasis in the name of geography was a major factor that distanced the adivasis from their culture and larger community. Also government is taking effort to put oil in to fire by banning homemade liquor, which started to directly affect tribal life since it gave the police opportunity to raid tribal houses frequently and demand bribes. Due to this, tribal people started to drink imported liquor, much more costly than what they were used to. Several new imported liquor shops have started mushrooming around the village.

### 3.2 Process of alienation: Understanding land alienation in Netali village (village 2)

Netali village is located in the same block as Damkhind, but the situation of the village is completely different from that of Damkhind as land alienation has taken place in this village. A migrant moneylender who became a resident of this village caused several

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<sup>90</sup> Interaction of field researcher with author, tribal right activist on 1<sup>st</sup> February 2015

<sup>91</sup>Interaction of field researcher with member of sangahtan on 9<sup>th</sup> february 2015

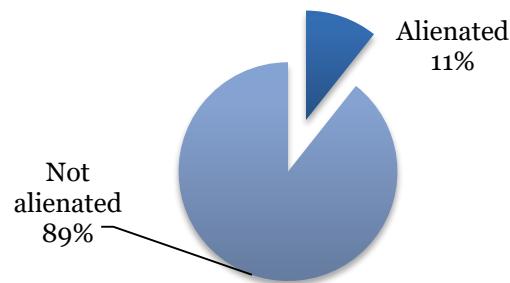
<sup>92</sup>interaction of field researcher with member of sanghatan on 12<sup>th</sup> february 2015

tribal people to lose their land through cheating and illegal occupation. Also, several companies along with migrants from other states have also caused land alienation here. According to the 2011 census, Netali has a population of 388: a very small village which comprises around 80 households. Geographically, it is located on the highway that connects Mumbai to Thane such that the village is divided by the road, with the houses on one side and farms on another. The population of Netali village is a combination of Maratha and Kunbi castes, and adivasis. Since the setting up of 6 industries in the area in the early 1990s, non-tribal migrants coming from other states to work in these industries have also become part of this village. According to the villagers, the entire land of Netali earlier belonged to the tribal people but after one contractor shifted to the village, more than half of the land now belongs to him and his relatives. This contractor belongs to the Maratha caste and has dominance over the tribal villagers and their resources.

### 3.2.1 Extent of Land Alienation in Netali: Household Survey <sup>93</sup>

**Table no 1.7**

#### **Alienation**



### 3.2.2 Process of alienation in Netali Village

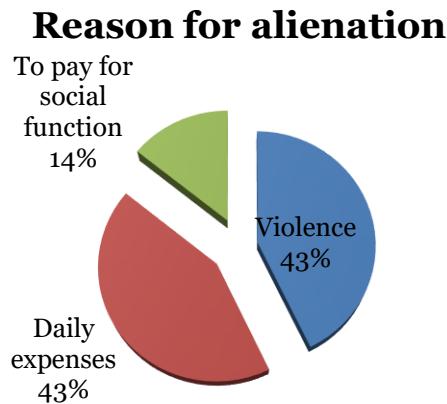
Table one illustrates that according to the household survey conducted in the village, 11 per cent of tribal land has been alienated. Table 2 is a description of the process of alienation of the 11 percent of land. It shows that 64 per cent of land was alienated through sale of the land. 18 per cent of land was forcefully acquired, while both mortgage and rent were reasons for alienation in 9 per cent cases each. Another finding,

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<sup>93</sup> field work survey data

which shows description of reasons behind land alienation, is illustrated in the table below:

**Table no 1.8 Description of Reasons for Land Alienation<sup>94</sup>**



43 percent tribal people responded that they lost land due to violence, and the same number of adivasis reported to have lost land in order to meet daily expenses. Sale of land for carrying out a social function (such as marriage) constituted 14percent of the total number of cases.

Netali is also connected to small town in Palghar called Manor, where big projects of housing and other offices are now being set up. Netali, with 90 households is a small village geographically, where some industrialization has taken place. The land holdings of tribal people in the village are very small and they cannot completely rely on farming for income. They have to thus find employment elsewhere, and are majorly engaged in contract work near Palghar. The major crops grown here are jawar, bajara, wheat and rice. Some tribal people from the village are good at worli painting, but the paintings made by them are sold at extremely cheap rates, while the same paintings sell for a high price at malls and stores. Analyzing the extent of alienation comparatively, the situation in Netali is worse than in Damkhind. One factor can be the lack of unity among the tribals in the former village, and another factor may be the lack of association of a Sangathan or a collective movement over the land issue. As revealed through in-depth interviews with the villagers, land alienation in Netali took place during the 1990s, when tribal people sold their land at very cheap rates to one dominant upper caste person

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<sup>94</sup>House hold survey of field work and analyses data

(Patil<sup>95</sup>), who became a resident of this village in 1990 and started taking land from the tribals through illegal possession as well as through legal transactions, both under his name as well as under the names of his relatives.

Devram<sup>96</sup> (name changed), a tribal person from Netali, has seen his grandfather cultivating his (own) land, but doesn't know how the possession of land went to a non-tribal, who is a migrant from another village, while Devram still has the documents to prove his ownership. He claimed that nobody from the village dared to speak in front of Patil<sup>97</sup>, who has acquired large portions of land in the village and has built a big house and cattle farm on the land belonging to the tribal community. He also used to grab land from tribal villagers and sell it at high rates to third party, since the land is connected to the highway and therefore many are willing to pay a high amount.

While the state government laws and the Panchayat (Extension to Scheduled Areas) Act (PESA Act) 1996 state that gram sabha has the power to decide about land alienation and restoration, but here the gram sabha doesn't intervene in land-related issues due to a lack of awareness among participants. Sunil<sup>98</sup> (name changed), a resident of Netali, said that on many occasions grams sabhas did not take place and yet false signatures were taken from gram sabha members and villagers. This made people lose faith in the gram-sabha and its intention to work on behalf of the people. Sunil lost his land when his father sold it to Patil, and Patil further sold it to a company,

#### **Story of Ramesh Warli, grand-father of Devram**

Devram's father was uneducated, and owned several acres of land, which were taken from him by upper caste people. They took his thumbprint on a document in return for some groceries and 1kg of rice. Now a huge factory stands on the same land, but Devram cannot claim ownership rights because the upper-caste occupier argues that this land has been sold to him and now cannot be returned. The Talathi officer is also not providing any document of this land transaction. Finally Devram gave up hope as none of the officers provided him justice through restoration of the land. In the words of his grandfather, "**The money lender or landlord will put tribals in economic trouble and help others to loot tribal resources. That's what happened with us**"

<sup>95</sup>Patil, is upper dominant caste man, who is migrated from another town to this village, now he has huge contraction business and huge houses along with farm in village

<sup>96</sup>Interaction of field researcher with resident of village on 14<sup>th</sup> February 2015

<sup>97</sup>IBID

<sup>98</sup> interaction of fieldwork researcher with member of sanghatan on 15<sup>th</sup> February 2015

which is constructing an industry on the land.

Sitaram<sup>99</sup> (name changed) is another victim of land alienation, who suddenly came to know that his land is under someone else's name. He went to several government offices but could not get his land back. That piece of land was around 2 acre in area and is now being used by non-tribals for non-agricultural purposes. Sitaram claims that a few years ago there was a huge fight over this piece of land in which his paternal uncle got killed.

Researchers sought to capture the process of alienation using three methods: interviews, Participatory Land Survey and household survey. Through the interviews it was found that most of land was alienated by non-tribals by directly taking possession of land. Devram's<sup>100</sup> (name change) 2-3 acres of land were acquired by a landlord in this way, but when Devram asked him to return the land, the landlord refused, saying Devram's grandfather had sold the plot to him.

The alienation process in the village has included rent, sale, mortgage as well as forceful acquisition of tribal land by non- tribals, which is what was observed at the ground level. There is a possibility of the existence of more forms and cases of alienation than what came out during the interviews as 6 industries have been set up over what has been claimed as tribal land. The upper- caste dominant community gets the help of the politicians and the brokers to forcefully acquire land and sell it to third parties.

In Netali village, land is alienated mostly through cheating and sale of land, according to Devram <sup>101</sup>(name changed). For many villagers, losing land is considered a big insult and many are therefore not comfortable openly accepting it. Patil, who has taken over vast tracts of tribal land, has brother who holds the post of Vice Sarpanch in the village and has control over the tribal Sarpanch. As Pramila<sup>102</sup> (name changed) stated, although the land cannot be sold legally, people have found many ways to do it. This includes bond papers and legal papers, by which Adivasis get cheated by buyers who promise a big amount at the beginning of deal and pay very less at the end of deal.

The following table gives an illustration of the alienation process that has taken place in the village Netali. Three participants reported that they had to sell lands due to unfair and illegal practices adopted by the company acquiring land. These three individuals had initially refused to sell their land but in some time plots surrounding their land were

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<sup>99</sup> Interaction of fieldwork researcher with member of sanghatan on 13<sup>th</sup> February 2015

<sup>100</sup> Interaction of fieldwork researcher with President of the village on 13<sup>th</sup> February 2015

<sup>101</sup>Interaction of field researcher with resident of village on 8<sup>th</sup> February 2015

<sup>102</sup> Interaction of fieldwork researcher with member of sanghatan on 13<sup>th</sup> February 2015

acquired by the company (which had already been sold by 2 tribal villagers). They found themselves virtually land-locked and stripped of basic provisioning of access to water. The company denied their request of letting them maintain an approaching road to their fields which would now run through the land owned by the company and not cutting off their water supply. In effect the company managed to hamper the income generation via land for these individuals and their households. Unable to withstand these pressure tactics, finally these people were forced to sell their lands at a rate lower than what was offered to the surrounding ones which were bought before these.

7 out of 3 participants in a Focused Group Discussion stated that they have land but don't have legal documents and fear the loss of their land. One participant said that going to government office will again give information to the Patwari regarding the status of their documents. They fear that someone will come and claim ownership on their land and they don't trust the Patwari anymore. Another participant revealed that his land had been grabbed by cheating, as his signature was taken on a document when he was in a drunken state and proper consideration for the land was not paid to him. According to the interviews, urbanization of nearer towns has made tribals more vulnerable and has pushed them towards land alienation. Vikas<sup>103</sup> (name changed), a 26 year old from the village described the process of alienation as developmental work for urban people at the cost of land remaining with the tribals. He states that ***“development means finishing tribals by looting their land”***. The road connectivity motivates brokers to gain control over land in these villages, and money lenders use political influence and power of the police (by giving bribes) to remove tribals from their land. He pointed out that a tribal would never sell his land if he had a choice; in an extreme case of poverty or to conduct the marriage of his children he would prefer to lease or mortgage land but this paves the way for alienation by cheating.

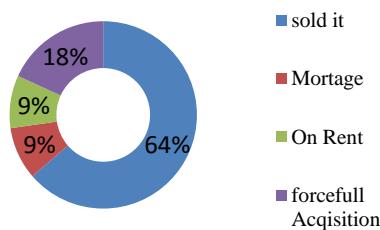
Another procedure by which tribal have lost land is that many tribal struggled to get photocopies of their land record—whether to prove in court that the land belonged to them, or for any other reason. They don't get the copies because some of the land has been transferred to another name by the *patwari* (village land record officer) in the land records. In the case of Sitaram and Devram, the *patwari* did not provide their old record and said that it was misplaced which Devram and Sitaram think is not true.

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<sup>103</sup>Interaction of fieldwork researcher with member of sanghatan on 24<sup>th</sup> February 2015

**Table no 2: Process of land alienation in Netali village<sup>104</sup>**

### Process of alienation land



The above table shows that most of the land was alienated through sale, in 64percent of the cases (but most of the tribal villagers reported that they had not been paid the amount that was promised to them before the sale). Land was forcefully acquired by non-tribals in 18percent of cases, and renting and mortgaging land occurred as reasons for alienation in 9 percent of cases respectively.

**Forms of Alienation in Netali Village<sup>105</sup>****Table no 2.1**

Number of cases	Form of alienation
2	Forceful acquisition by non tribal
4	Sold land to non tribal ( with No consent )
3	Have land but don't have document
1	Through Cheating

The above given details came out through in-depth interviews, Focused Group Discussions and Participatory Land Survey that were conducted during the research study at the village level. However, it was observed that many more aspects of land alienation could not be fully uncovered during the study. The sale without consent of

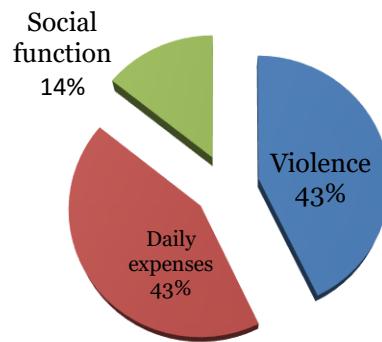
<sup>104</sup> Data collected Through household survey : process of alienation

<sup>105</sup> Forms of alienation through in-depth interview of villagers on land alienation

tribals is aided by the patwari, who gives information about the pieces of land without registration that are occupied by tribals. .

**Table no 2.2: Description of Reasons for Land Alienation<sup>106</sup>**

### Reason for alienation



### 3.2.3 Impact of tribal land alienation in Netali

The impact of land alienation on tribal life can be clearly observed. The young generation of tribals is migrating outside the village for daily wage earnings and to work in brick factories and other hazardous work in urban areas. Pavlya & Usha<sup>107</sup> (names changed) stated that after losing land they migrated to the city to earning money, as the piece of land remaining with them is small. Even their children had to migrate with them due to which they could not complete their education. They informed us that the journey from being a farmer to becoming a laborer was a very painful one. Those who have lost their lands to factories do not even get work in the same factories as they do not possess the skills and educational qualifications for the same. Some tribals have now let out their houses to migrant workers who have come to work in these factories. The village itself does not look like a tribal village, the forest cover is less and there is no land for agriculture. The only identity remaining for the tribal community is as a “laborer”. Most of the tribal people reside around Palghar district where a lot of illegal construction is being carried out on tribal land.

<sup>106</sup>House hold survey analyses data

<sup>107</sup>Interaction of fieldwork researcher with villager on 16<sup>th</sup> February 2015

## 4. Land alienation in Palghar: wider context

Palghar district is an outcome of 25 years of struggle for separate district. Created out of the Thane district, it came into existence as a separate district on 1<sup>st</sup> August 2014.

The Warlis of Thane have been facing exploitation since even before the British rule. In more recent years, political parties and non-governmental organizations have undertaken efforts for their empowerment, while many such agencies have also taken undue advantage from them. This fact is not restricted just to Thane district, or to political parties and NGOs: migrants, local political movements and corporate have been responsible for the same in different places.

The process of land alienation in Thane started taking place since the Portuguese rule from 1535 to 1740, and carried on during the Maratha rule from 1740 to 1818 and then British rule from 1818 to 1947<sup>108</sup>. Tribal rights activist Prabhu stated in his interview<sup>109</sup> that prior to 1856, when the first land settlement survey was initiated by British in what was then Bombay Presidency, there was community rather than individual ownership of land. He also suggests that ownership rights were recognized for both men and women. The shift brought about by the British government towards paying revenue in money terms was disastrous for the tribal people. They often failed to pay revenue, both due to their poverty, as well as due to the dependence of the tribal economy on agriculture and forest produce, which had poor value in money terms.

The requirement to pay revenue in money terms became a source of exploitation for tribal people because they were forced to sell their agricultural produce to middlemen ('baniyas') to obtain money. The baniya would then pay the tribal tax to the government on their behalf. This directly benefited the class of (upper- and middle-caste) middlemen and landlords who paid tax in their own name instead of the tribals'. As a result, many tribal people lost their land, and this land was then registered in the names of others: frequently dominant/upper castes<sup>110</sup>. Borrowing also became an avenue for exploitation. A report on the aboriginal and hill tribes of the partially excluded areas in the province of Bombay by Symington in 1938 (under British rule) cited the following story in his report: An old man borrowed 100 rupees from his landlord for his son's marriage three years ago.

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<sup>108</sup>L. (1983). *Reparation in Dahanu: Where it comes from?* (p. All, Issue brief). Mumbai, Maharashtra: Charita prnters.

<sup>109</sup> interaction of fieldwork researcher with author, activist on 1st February 2015

<sup>110</sup> Lobo, B. (2011). *Internet* (Vol. 3, Maharashtra). Delhi, Delhi: Akar books.

The interest charged was one *anna* per rupee per month. He repaid 100 rupees but still does not know the balance.<sup>111</sup>

It was only in 1886, when the British government began to survey land that they discovered extent to which tribal had lost their lands. In response, the government then carried out a second land settlement in 1890, returning land to tribal owners. But the procedure was simply repeated again, with the tribal people constantly losing their land due to upper caste land holder. Only a few people got their land back and others got the land transferred to the upper castes and baniyas. Along with this, the British government itself acquired 4, 01,017 acres land in 1876 in an overnight tribal removal from their land, and merged it with the forest land, which also lead to the alienation of land of many tribes<sup>112</sup>.

For the initial part of the British rule, the tribals depended on shifting cultivation for their livelihood. The British government forced them to live in permanent settlements instead and give up their practice of shifting agriculture. While the government's agenda was to make the region around Thane productive and profitable, the change undermined the traditional methods the tribe used, and also their culture and identity<sup>113</sup>. While forest land in India has been considered a community resource since ancient times, the requirement of the British administration for wood, not only for shipbuilding and railways, but also other activities contributing to economic growth, motivated a shift in that perspective .Forest resources were nationalized and the state as the new owner forced many tribal to move out of the forest. The British also introduced the Zamindari system, which converted the tribes into landless laborers employed by upper-caste farmers. (Warli tribe and their tribal art 2012)

Thirty years later, the government once more found that tribal ownership of land had decreased sharply. Then British government decided to introduce legal provisions to prevent alienation of tribal land in the year 1920<sup>114</sup>. Although thousands of tribal could have applied for land on these terms, only 114 did. The others may not have applied due to the fear of 'sahukars' (landlords) and thus preferred to remain landless rather than risk their displeasure. In addition to this, under the 1920 land settlement the British

<sup>111</sup>L. (1983). *Repration in Dahanu : Where it's come from ?* (p. All, Issue brief). Mumbai, Maharashtra: Charita prnters.

<sup>112</sup>Lobo, B. (2011). *Internet* (Vol. 3, Maharashtra). Delhi, Delhi: Akar books.

<sup>113</sup> Warli tribe and their tribal art. (2012, September 29). Retrieved September 10, 2015, from [http://www.biodiversityofindia.org/index.php?title=Warli\\_tribe\\_and\\_their\\_tribal\\_art#](http://www.biodiversityofindia.org/index.php?title=Warli_tribe_and_their_tribal_art#)

<sup>114</sup> Interaction of fieldwork researcher with Pradip Prabhu, a tribal rights activist and scholar, dated 1<sup>st</sup> February 2015.

distributed forest land to non-tribal people. This introduced outsiders into areas to access the tribal land.

During the Home Rule movement of 1916, the question of giving protection to tribal land through tenancy act was raised for the first time. It was mandated that revenue paid by the owner would be recorded on a document along with the survey number, size of the plot, and other details. This was the beginning of a systematic recordkeeping with respect to land. However revenue was levied and records were kept only for land under rice cultivation. As with Dhara Pavati<sup>115</sup>, other land owned by tribals continued to be without formal registration, even though the government collected half of the crop from the tribes—without recognizing it as revenue since it was paid in kind. The ownership of this land by tribal was thus not acknowledged, and 60percent of land was excluded from official records. However, with the introduction of modern agricultural technology, much of this land is now cultivable. As a result, the change in tribal possession of land is obscured. This has also been mentioned by tribal right activist Pradip Prabhu in an interview<sup>116</sup>

#### **4.1 Land Alienation in Maharashtra with special reference to Palghar**

The landlessness and poverty of the tribals in Maharashtra was analyzed in a study by the Tribal Research Institute Maharashtra, which connected it with malnutrition among the tribals<sup>117</sup> . In Maharashtra, Palghar district faces high levels of malnourishment. Despite being highlighted in the media, the issue has failed to attract the attention of politicians and policy makers. Since the formation of the district in 2014, 177 children have died due to malnutrition, compared to 154 in 1992<sup>118</sup>(Shedge 2015), (DNA2014). In Nandurbar district 72percent of tribal families which suffered from malnutrition have less than 3 acre of land, of which were 40percent are landless or owned less than one acre land<sup>119</sup>.

Tribal Research and Training Institute (TRTI) of Maharashtra has done 2 studies on the extent of tribal land alienation in Thane district in the years 1979 and 1987, both of

<sup>115</sup> Kharip (cultivable) land was registered on official documents and was known as 'Dhara pavati', while the land then considered uncultivable was not registered.

<sup>116</sup> Interaction of field researcher with author, tribal right activist on 1<sup>st</sup> February 2015

<sup>117</sup> Tribal Research & Training Institute of Maharashtra (2002). The Truth About Malnutrition and Child Death. Vol. 3, TRTI, Pune

<sup>118</sup> Maharashtra government to Tribal land for market (2014, December 12). *Daily News & Analysis*, 5.

<sup>119</sup> Tribal Research & Training Institute of Maharashtra (2002). The Truth about Malnutrition and Child Death.

which show that a large proportion of tribal population has lost land<sup>120121</sup>. However, the studies have had no effect on the administration and the legal framework. The Adivasis in the region are mostly daily-wage labourers and those who possess land carry out marginal farming for subsistence (See data of land holding in table 2.3) A tribal rights activist in Damkhind village (Member of Adivasi Ekata Parishad), Doctor<sup>122</sup>, in an interview mentioned that increasing industrialization was one of the factors that helped convert landless tribals and cultivators into a labour force in Palghar. Industrialization during the 1980s and construction of a highway connecting Mumbai and Ahmadabad were major factors for the loss of tribal land.

The question as to how much land is with the tribals and how much has been lost has been studied by Brian Lobo, who mentions in his report that 43 percent of the tribals of Maharashtra are landless (Lobo 2011). Studies done by TRTI also give a similar figure of land holdings of tribals<sup>123</sup>. The Maharashtra state development report of 2007 states that 41.8percent of the tribals in Maharashtra are landless compared to 28percent of landless amongst the non-tribal population of Maharashtra. Landlessness is the highest among the Katkari tribe with 83percent, and 63percent of Kolam tribals are landless and vulnerable in terms of resources. 70.1 percent of tribals have land below 2 hectares, compared to 58.9percent of non-tribals. (GOM 2007).

To get a clearer picture of land alienation in Palghar tribal, the below table provides data of landlessness and land holdings in two blocks of Palghar (Jawahar and dahanu)

**Table no 2.3: Land holding pattern of STs in Maharashtra and two blocks of Palghar in ITDP area in 1987(in hectare)** <sup>124</sup>

Block/ state	Landless	Less than 1	1-2	2-3	3-5	5-10	Above 10
Jawahar	44%	14%	24.8%	9.52%	5.60%	2.24%	0.00%
Dahanu	36%	30.72%	24.96%	6.40%	1.92%	0.00	0.00%
Maharashtra	42.6%	15.2%	23.8%	8.6%	6.7%	2.6%	0.4%

TRIM study 1987

<sup>120</sup> Tribal Research & Training Institute of Maharashtra (1979). Land Alienation and Restoration of Land in Maharashtra. TRTI, Pune

<sup>121</sup> Tribal Research & Training Institute of Maharashtra (1987). Extent of Land Alienation. TRTI, Pune

<sup>122</sup>Interaction of field researcher with author, tribal right activist on 14<sup>th</sup> February 2015

<sup>123</sup> Tribal Research & Training Institute of Maharashtra (1987). Extent of Land Alienation.

<sup>124</sup> Lobo, B. (2011). *Internet* (Vol. 3, Maharashtra). Delhi, Delhi: Akar books.

1. The safeguarding of tribal land by the state government is brought into question by looking at this data of two blocks of Palghar- 44 percent tribals in Jawahar and 36 percent tribals in Dahanu have no landownership.
2. The table clearly shows that the percentage of landlessness in these two blocks of Palghar district is higher than percentage of landlessness amongst tribals in the entire state.
3. Amongst the tribals who do have land, the proportion keeps decreasing with an increase in the size of land-holding in Maharashtra. While 6.7 percent have 3-5 hectares of land, 2.6 percent own 5-10 hectares of land while 0.4 percent tribals in the state own more than 10 hectares of land. The corresponding figures for the blocks Jawahar and Dahanu are much lower.
4. The Maharashtra tribals hold 0.4percent land which is above 10 hectares while for the two blocks this figure is 0.00 percent.

The situation of tribals in terms of land is clearly evident from the above table.

The study conducted by TRIM shows the percentage of land alienation through different modes of transaction. The present scenario in Palghar district is similar:

**Table no 2.4 .Different mode of transfer land Maharashtra<sup>125</sup>**

Mode of transfer	Area in acres	Total percentage
By sale	1870	52.49percent
Auction by bank	00	00percent
Forcefully occupation by money lender / contractor	00	00percent
Encroachment by non tribe	96	2.64percent
Mortgage	350	9.64percent
Lease	1139	31.36percent
Public purpose	68	1.87percent
By any other	109	3.percent
Total	3632	100percent

TRIM study 1988

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<sup>125</sup> T. (1987). *A study to determine extent of land alienation in Maharashtra* (Vol. 1, Rep.). Pune, MH: TRIM, Pune.

It's interesting to note that a major form of land alienation is the sale of land (52.49percent), followed by lease of the land (31.36 percent). Mortgage constitutes 9.64percent of cases, while encroachment by non-tribal constitutes 2.64percent of the cases.

Another important finding of the study is that none of cases relate to forceful acquisition of land by non-tribals while during the data collection, we came across several cases that fall under this category.

#### 4.2 Restoration

Land has been alienated from tribals of Maharashtra, but restoring these alienated pieces of land to the tribals has been unsuccessful. Until 2001, 45634 cases were filed to restore the alienated land but in only 56percent of the cases the land was actually restored and 44percent remains alienated from the land<sup>126</sup>. The forms of alienation of tribal land vary from area to area and from district to district. While interviewing the tribal activist Kaka Dhondade<sup>127</sup>, it was revealed that most tribals have very limited and small pieces of land holdings, an argument that was substantiated through cross-verifications in both the villages.

**Table no 2.5: Land restored to tribal in Maharashtra (position on 30/9/1988)<sup>128</sup> (1975 to 5<sup>th</sup> September 1988)**

Area actually to be restored						Area actually restored			
Year	Cases during year	Figure of cases	Area restored	Progressive figure of restored	Cases during year	Progressive Figure of cases	Area restored	Progressive figure of area restored	Year
Total	19781	19781	40610	40610	14597	14597	28865	28865	Total

TRIM study 1987

<sup>126</sup> G. (2007). *Maharashtra development report*. Delhi, Delhi: GOI.

<sup>127</sup>Interaction of field researcher with senior tribal leader on 14<sup>th</sup> February 2015

<sup>128</sup>T. (1987). *A study to determine extent of land alienation in Maharashtra* (Vol. 1, Rep.). Pune, MH: TRIM, Pune.

The above table indicates that only 44percent cases were found to be valid transfer of land to tribal and rest 56percent are invalid, which means that a majority of tribals lost their cases and were not restored their land. 11745 hectares areas remained unrestored which caused in this 14 year period.

The expert committee on tribal land alienation after the visit in 2001-2002 reported official apathy, neglect for filing cases related to tribal land alienation and putting them on timely disposal, neglect for restoration of land and unwillingness towards invoking the proper provisions of law against persons in legal and forcible possession of tribal land.<sup>129</sup>

The below-given table indicates restoration of land in Thane district (including the area which now comes under the Palghar district).

**Table no. 2.6: District wise valid transfer of land to ST cultivators  
(status on 31.3.1999) in hectare<sup>130</sup>**

Cases registered			Area to be restore		Area actually restore in hectare		
State / dist	Regd. Cases	Decided	Cases	Area to be restored	Cases	Area resorted	Remain area
Thane	3002	2982	701	1729	677	1643	86
Maharashtra	45634	45534	20,906	42,747	20,031	40,265	2482

TRIM study1987-88

As the above table shows, out of 45,534 cases only 20,906 cases were found to be successful, i.e. 43percent.

### 4.3 Administrative factors and laws

There are many laws safeguarding tribals and their resources, but their implementation faces many difficulties, which will be discussed in detail shortly. While the Constitution (Article 17, 23, 24, 244) and laws like PESA attempt to protect tribal rights to land, culture, dignity by giving them equal right, and on the other hand, the Maharashtra government is planning to open up tribal land to non-tribal buyers who will be able to set up industries and employ tribals in them.(DNA 2014) Ironically, this announcement was made by the Tribal Affairs Minister of Maharashtra. From the above, we can guess the

<sup>129</sup> G. (2007). *Maharashtra development report*. Delhi, Delhi: GOI.

<sup>130</sup> Lobo, B. (2011). *Status Report of Adivasis/Indigenous People- Maharashtra* (Vol. 3). Delhi, New Delhi.

potential impact of such a policy on a tribal who is totally dependent on his/her land and agriculture produce, while their voices continue to go unheard.

The Maharashtra Land Revenue Code 1966 is a law specific to the state enacted for the protection the tribal land. However, the code itself has a loop for getting tribal registration on his behalf by a non-tribal.

- a) According to Section 36 of the Code, no transfer of Adivasi lands to non-Adivasis is permitted except with permission of the Collector, and that too where the transfer is by way of lease or mortgage not exceeding five years
- b) In other cases, prior permission of State Government is necessary before granting permission to transfer, sell, or exchange land held by an Adivasi holder.
- c) No sale or transfer in favour of a non-Adivasi can be sanctioned unless any Adivasi, residing within a radius of 5 kms is unwilling to buy it.
- d) If any transfer takes place in contravention of these provisions, the transfer will be declared invalid and the land will vest in Government. The land is to be restored to the original transferor, on condition that he shall pay back the original price received

In 1960s, Maharashtra amended parts of section 36A of Maharashtra Revenue Code 1966, which was the main legislation preventing alienation of tribal lands without the permission of the District Collector. But the benefit of restoration of land has been extended to cover the whole state instead of Scheduled Areas; state amended Maharashtra Restoration of Land to Scheduled Tribes Act, 1974, which restores ownership of land legally and illegally taken from tribals since 1957, both within and outside Scheduled and Notified areas. The law says that if the transfer of occupancy of a tribal land has taken place in favour of a non-tribal who was rendered landless by reason of acquisition of his land for public purpose, only the land involved in the transfer shall be restored to the tribal

.Finally the Panchayat (Extension to Scheduled Areas) Act, 1996(PESA) applies across the Scheduled areas of nine states, and uses the mechanism of the Gram Sabha to protect tribal rights. But in most of the state, although laws exist to prevent the alienation of tribal land they are not implemented: including those dealing with the restoration of land. Cases remain pending for

It was only in 1976, that Maharashtra was included among the Fifth Schedule areas, joining Madhya Pradesh, Himachal Pradesh, Bihar, Orissa, Rajasthan and Gujarat.(Mander 2004) This ensured the protection of tribal on paper, but the reality was different. The most important part of PESA is the vesting of power with the Gram-sabha—but where Gram sabha members are not aware of the law, they are naturally unable to use the Gram sabha to protect land rights. In an interview with the *talathi* (government officer responsible for keeping revenue land records), it was brought to light that he was not aware of the PESA law, but just knew that land cannot be transferred. Enquiries in tribal areas show that about 99percent of the members of the Gram sabha and the elected representatives of PRIs and about 90percent of the official functionaries working at the village and block levels are not aware of the PESA act<sup>131</sup>. If the revenue officials don't know the law, then how can it be expected to be spread among the tribals. What is apparent is the disregard by the State legislatures of their duty to put the critical components of PESA in place during the passage of local legislation in conformity with it. If the serious inconsistencies in the PESA Act and the Panchayati Raj legislation in the states are bad, worse still is the fact that even the limited state laws remain on paper in the absence of rules and guidelines. While Maharashtra itself has state laws to restore alienated land to the tribal PESA does not allow transfer of land from tribal to non-tribal in Fifth Schedule areas. Yet this has now become the exception because many state started amending laws and where transfer of land is allowed with the permission of collector. A study notes that in 46.3percent of cases, the Collector grants permission to tribal to sell land in order to repay government loans<sup>132</sup>. One of the most important acts for the protection of tribal rights, the SC/ST Prevention of Atrocities Act, is also hardly implemented.

#### **4.4 Movement and struggle to survive**

The price of land in Mumbai and Thane are touching the sky, which is also causing a rise in the prices of land in Palghar as well. In Palghar, it is particularly the tribal land which is attracting brokers to come in and take away the land. In this scenario when everyone is ready to grab the land the movement is still going on. Maharashtra has a long history of resistance through movements by different castes and tribes. In the Palghar the Bhoomi Sena grew out of the opposition to the land grabbing movement (presently known as Adivasi Ekata Parishad ) in 1970s. The Kashtakari Sanghatana founded in 1978 began

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<sup>131</sup> This is our home land, collective of easy, 2007

<sup>132</sup>Mander, H. (2004). *Tribal policy pulling back from brink?* (Issue brief). New Delhi, Delhi: Socialist front.

with people's education in Thane. The Shramik Sangathan began in 1979 with a welfare approach and then transformed into a trade union in 1982. Also in other parts of Maharashtra like in Dhule district, Shramik Sangathan led a movement against the land grabbing. Kashtakari Sangathana and Adivasi Ekta Parishad were able to take some of their land back by taking direct possession of the land that was already alienated to non-tribals with the massive Laval movement<sup>133134</sup>. These Sangathans fought against land alienation, debt, and gender issues in the area which had been ignored by political parties and State government. Within the Warli tribe, who are mostly found in Kokan and Thana, in 1920, the Devi movement took place, which began from Palghar and extended to south Gujarat and Umbergaon. This was the first time tribals of western India revolted against the parshis for self- defense and self-respect<sup>135</sup>. Community organization leaders and members of some tribal groups like the Kashtakari Sanghatana and Adivasi Ekta Parishad who have been constantly working in this area to resist tribal land alienation face false criminal cases against them. The fact-finding report published in 1983 by Lokanshi Hakk Sangathan investigated the charges, which were proved to be false.<sup>136</sup> While conducting the study in the villages, the researchers met activists who continue to face the same situation, such as Nitin, working with Sangathan for the last 20 years. The police and government harass them using the law, claim links with Maoists and relations with Christian missionary organizations. One of most senior activists of the Sangathan, Kaka, who led the movement for more than 50 year, said that at present the movement is weakening, not because people alienated\drifted away from the Sangathan, but because of the failure of justice delivery, filing offalse cases, and administrative biases towards the Sangathan, which brings negativity between the people.

#### 4.5 Problem face by people related to land <sup>137</sup>

1. Those who have land did not got any documents in proof, as a result of which they are now being called illegal occupants (although they have been cultivating the land for more than 50 years)
2. Those who have documents were not allowed to take possession of their land.

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<sup>133</sup> Rudolaf c, H. (2000). Tribal history. *EPW*. Retrieved December 1, 2015.

<sup>134</sup> Lobo, B. (2011). *Internet* (Vol. 3, Maharashtra). Delhi, Delhi: Akar books.

<sup>135</sup> Rudolaf c, H. (2000). Tribal history. *EPW*. Retrieved December 1, 2015.

<sup>136</sup> L. (1983). *Repreration in Dahanu: Where it's come from?* (p. All, Issue brief). Mumbai, Maharashtra: Charita printers.

<sup>137</sup> Interaction of field researcher in focus group discussion on 16<sup>th</sup> February 2015

3. The waste land which was not cultivated by tribal did not get registered under their name and has now gone to non tribals
4. The survey of agricultural land (supposed to be done by the Patwari after every six months or yearly) was last conducted in 1991 but the data did not get published.
5. After the abolition of the Zamindari system also, the land continues to be registered in the name of Parshis and Baniyas even though tribals are farming on the land.

## Conclusion

While looking at the extent of individual land alienation in a society we just see the transactions between tribals and non-tribals through different modes in a revenue land. But while doing study we observed a situation where the land is not registered with the revenue department. The land which does not have the supporting land record with tribals and the land falling under forest pattas (forest land rights) remained unnoticed. Land alienation takes place when the laws and district administration fail to perform their duties, which gives an indirect support to those who grab the land. The grabbing of land from tribals is not an only tribal defeat but is the defeat of the district administration, of the law, the Constitution since the process of land alienation takes place in defiance of all law. It is important to note that the study is limited in its findings and the actual extent of tribal land alienation is presumably much higher, but has not been accurately reflected owing to the huge levels of white collar corruption, industrial pressures, undue political influence and the dominance of upper caste groups are their brokers. Those opposing this are few and with barely any resources. The PESA Act was enacted to bring about changes in tribal life, but it did so only on paper. The tribal Sarpanch is frequently over-shadowed by a more powerful authority of the dominant community in the villages.

## Recommendations

Following are some brief recommendations so as to ensure a better control of the tribal community over their land and resources:

1. Easy credit guarantee fund for tribal person, in order to prevent them from taking loans from local money-lenders, which eventually leads to the over-taking of land by the money-lender due to non-payment of debts.

2. A system of land bank can be developed by the state for mortgage and lease of land which will be returned to the tribal individual.
3. The agricultural land survey carried out by the patwari should be examined by the SDM or the Collector, or an expert body should be set up for the same.
4. Land record should be made freely available to tribals at a location close to their villages, instead of other offices like, panchayat, block headquarter, etc. the old as well as new records should be made easily available.
5. Special land restoration campaigns need to be developed with the involvement of the gram sabha.
6. There is a need to form a committee linking the district administration with local collectives such as Sangathan in order to stop alienation of tribal land.
7. Informational and legal awareness camps should be held for the talathi and other government officers who deal with land-related issues.

## **Chapter 4**

### **Odisha**

## 1. Introduction

The eastern Indian state of Odisha stands third in the country in terms of numerical population of Scheduled tribes, with the tribal population at 9.59 lakh according to the 2011 Census. Scheduled tribes comprise of 22.8 per cent of its population, up from 22.1 per cent in the 2001 Census. In the state, seven districts are fully and six districts are partially covered under the Fifth Schedule. Mayurbhanj is the district with the highest number and percentage (58 per cent) of tribal population. Scheduled tribes comprise of 22.8 per cent of tribes either through outright sale or through leasing.<sup>138</sup> Between 1971 and 1991, the middle peasant population (with 4-10 acres of land) declined from 30.4 per cent to 9.9 per cent, and there was a stark rise in the number of landless labourers and small and marginal farmers. For marginal farmers, it went up from 17 to 39 per cent in the Kalahandi–Bolangir–Koraput area<sup>139</sup>, pointing towards significant land alienation for adivasis in the state.

The district selected for the study in Odisha is Koraput, which is the third largest district and situated in the Southern tribal belt of the state. 50.56 per cent, or more than half, of Koraput population comprise Scheduled tribes. Koraput was a much larger district till 1992, and was divided into four separate districts that year: Koraput, Rayagada, Malkangiri and Nowrangpur. The study took place in two subdivisions in the district: Koraput and Semiliguda.

The district collector changed thrice over the course of the study, and despite three visits to the state, the researchers could not manage the permission to get the required land records for the state. Land records in Odisha are kept in two parts. One, the present land records or the record of rights for each plot of land, maintained at village level. The older set of land records comes from the survey and settlement that took place in the undivided Koraput district from 1951 to 1964. There are no land records maintained on annual or decadal basis and the “Khatian”, or the book to record all land transactions, is maintained similar to mutation records. As a result it is not possible to calculate around what time land was transferred from a tribal to a non-tribal. Only the present land holding status of a plot of land and the first status during the time of settlement can be known.

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<sup>138</sup> UNDP. *Status Report: Land Rights and Ownership in Orissa*.

<sup>139</sup> Ibid.

## 2. Extent of land alienation

It is not possible to calculate the extent of land alienation in Odisha due to unavailability of the documents. The sub collector, Samarth Verma in February 2014 had issued the permission to hand over the land record documents. However, it took almost six months for the Tehsil office of Koraput to hand over the documents. The old settlement land records in the Tehsil office were however in deplorable condition, and not fit to be photocopied. A second copy of settlement records is available in the Collectorate office, though the team could not access it for photocopying despite applying to do so repeatedly under the Right to Information Act.

While on the one hand it was not possible to find the formal extent of alienation due to unavailability of base year records, the difference between ownership and possession could not be noted as well due to problems of its own. The present record of rights provided by the land records office and the one available online mention only the '*Khasra*' number of a piece of land. However, the maps provided to us (again made in 1956) have a plot number on it not matching the *Khasra* number. So one piece of land would have a *Khasra* number 61/230 on the records while could just be Plot no. 8 on the map.

The individual plot map available online for each plot had both but did not mention the caste of the person owning it. The researchers have found it extremely arduous and difficult to process three documents individually and triangulate the information as each village like Kidogaon would have around 1000 individual plots.

While the research failed to come up with numbers for the extent of land alienation, some secondary research points at the issues the state of Odisha is facing. A National Institute of Rural Development (NIRD) study in Bihar and Odisha showed small and marginal farmers were losing their land due to emergency family needs and uneconomic holdings. With little technical know how and farming inputs, the land is becoming increasingly unviable to farm. The study also revealed that there were high rates on tenancy ranging from 18 per cent in Bihar to 27 per cent in Odisha. The lease market operates through tenancy. Fifteen per cent of rural households in India lease land and 22 per cent of households, which is the highest in the country, in Orissa lease land.<sup>140</sup>

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<sup>140</sup> UNDP. *Status Report: Land Rights and Ownership in Orissa*.

### 3. Processes of Land Alienation

#### 3.1 Understanding Land Alienation in Kodigaon/Kodigam

The first village selected in the district was Kodigaon, close to Semiliguda town in Koraput. Though the problem of individual alienation is not starkly evident here, since the villagers lost most of their land in the 1960s due to acquisition, it is a classic case of double displacement where the villagers settled on someone else's private land after not having been rehabilitated. Because most people here have been landless for two generations, it is an interesting case study to see the impact of loss of land and livelihoods as well.

Villagers at Kodigaon were displaced in 1963 when the government acquired 12000 acres of land in the area for Hindustan Aeronautics Limited (HAL). The government actually acquired 4000 acres of land above what HAL had originally demanded, though most of the land still remains unused by any project. As a result of the acquisition, 10 villages were completely displaced and affected while 12 others were partially affected. Out of the total, displaced Scheduled Tribes were 480 households (2016 persons), Scheduled Castes 232 households (998 persons), and General 149 households (625 persons).<sup>141</sup>

HAL ended up using just 3000 acres of the land, and some other parcels were given to National Armament Depot, research institutions and even private schools. Vast acres of the land are still unused and many families continue to reside and farm inside the HAL areas despite several attempts at coercion and evacuations. Many villages in the Sunabeda area were in fact displaced thrice, due to the HAL acquisition, construction of the Kolab Dam and the armament factory.

Since there were no proper rehabilitation schemes in place, compensation was provided only in cash. The village of Kodigaon was one of the ten villages displaced during the acquisition for HAL. The total land acquired for HAL came up to 615 acres. According to government records, 25 families were displaced and compensation of nearly Rs 2.4 lakh was paid to the affected families.

Kodigaon residents say they got to know about land acquisition in late 1950s and were finally displaced in 1963. Since most men who actually lost the land as owners and received compensation are either very old or dead, the exact amount of compensation and the procedure of displacement could not be known. Most of what we have is

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<sup>141</sup> Mohanty, B. (n.d.). The Plight of Koraput Oustees. Retrieved from <http://www.oocities.org/frontierweekly/pdf-files/vol-42-9/koraput-42-9.pdf>

anecdotal information about the displacement. The villagers have not been yet rehabilitated by the government, and the Tehsildar at Semiliguda told us the government was working towards it.

The villagers, without having a place to stay, shifted to Champaguda, a nearby village. One man in Champaguda offered them 7 acres of land to build huts and stay till they got proper rehabilitation. However, the villagers have since stayed on these seven acres, making this a case of displacement for a village, and individual alienation for the second man.

Senu Dorai<sup>142</sup>, a 65 year old man, recounted his memories of the displacement and stories he had heard from his father. His father earned a living by selling minor forest produce, but he himself was a daily wage labourer now.

He said when the land was taken away, members of all households were called to the Koraput police station and paid some cash for the land they lost. His father died when he was very young, and he went as a child. The official who was giving away the money told him that as he was a child, the official would keep the money and Dorai could take it when he grew up. And so Dorai never got the compensation for the land he lost.

He remembered the official had said the company would take all the villagers to a good village in Andhra Pradesh. But the three leaders or elders in the village opposed this as they would not understand the language of the new state.

So these people came to Champaguda and settled down on 7 acres of private land that was offered to them as a temporary solution. 66 houses were made then by the government on private land, according to Dorai, and the people never received alternative accommodation since.

The company officials in a meeting in the village had said they would get better houses and services than they were getting in their village. The company people said they would even carry the cattle in the truck. The people were scared to protest since they still remembered British rule and thought the consequence of any protest would be bad. Since the villagers did not accept the proposal to move to Andhra, they shifted to Champaguda on their own, walking all the way.

Pondiya Buddu<sup>143</sup>, who is the oldest man in the village according to the others, said five jeeps were sent the day the land was taken away. Throughout the conversation he kept saying how young he was, so little that he would wear no clothes but a piece of cloth tied

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<sup>142</sup> Interview on 11 Feburary, 2015. Kodigaon, Koraput

<sup>143</sup> Interview on 11 Feburary, 2015. Kodigaon, Koraput

around his waist. He said that helicopters were hovering around one day just before the government took away the land, and the people stooped on the ground to pay their respects as they thought it was some supernatural power descending on them. He said there were around 30-35 households at that time in Kodinga village who were displaced. He remembered that when they came to present-day Kodinga, mud huts were made with sheets of tin on the top, and each household was given one such house.

He however said the government provided a few trucks to bring them to Champaguda. “Nobody knew why they would throw us out. We had no connection to the outside world and we were stupid. We believed what the government told us, and did not protest at all, unlike what happens in villages now. We kept thinking our land would never go. They one day put us in a truck and brought us here and paid us some cash. No officials had visited us before. The Collector came and met us after we came here.”

At present, the shopkeeper who gave away the seven acres of land is dead, and his son and grandson have ownership of the land. The son told us he did not mind people staying here, however, the grandson is now demanding compensation for the land lost. Ghasiram, the counsellor in the village, told us<sup>144</sup>, “They are asking for Rs 1500 per household. I think it is reasonable, after all, they too lost their land. But people in the village think the government had rehabilitated them and do not want to pay.” The son had lodged a complaint on alienation of land few years back, and the villagers confirmed that the SDM had come to resolve it. But the shopkeeper changed his mind and decided to solve it among themselves.

Though he did not remember much about how much compensation was received, he said despite being poor, they had enough food to eat when they had land as a kid. But food became scarce when they shifted to the new village. His parents had not worked for daily wage before, but started doing so after the displacement. He says there was much common property, or ‘anabadi’ land, in the previous village, used for cattle grazing, festivals, etc. There was no compensation received for that. He explained, “We thought it was *Sarkari* land and did not belong to us. The government thought the same. But it became scarce when we shifted to the new village. Since the whole village shifted together, community life has not altered as much, but brothers act more selfishly with each other.”

On asking if people had cleared and taken over other pieces of land over time, he said he did not know of anyone who had. It was already a settled village and trying to farm on

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<sup>144</sup> Interview on 13 Febrary, 2015. Kodigaon, Koraput

new land would mean encroaching on land that did not belong to them. He said, “We thought that land belonged to others. So we did not want the same fate of landlessness for others, like we were going through.”

The survey results in Kodinga have not been used as they could be misleading for multiple reasons. One, most villagers had record of rights from pre-acquisition days and most of them had seen or kept the acquisition notification, which meant that they had no idea how much land they had lost after the acquisition or outside its ambit. Also the land records were not available for the participatory survey, and the map that was made available from the government dates from before the building of HAL and dams in the area. There has been no survey in the area after 1956 and the legal transfer of land after the acquisition must be much lower than the survey suggests.

The survey though suggests that out of 97 tribal households surveyed in the village, 4 households had either sold land or lost possession of land either before or after the acquisition. All of them had lost land to a non-tribal. One of them said he had sold it for a social function at home, while the others could not provide any cause.

Ghasiram, who is the councillor of the Sunabeda municipality, first flagged the two major issues the people in the area faced with regard to land: The first was the issue of no rehabilitation and the case of Kodigaon being settled on another’s private land. While the record of right is still in the name of the real owner who still pays his taxes, the people who stay here are two generations removed from the ones who originally shifted here. They feel this is the land the government has allotted as they gave up all their lands for “development.” So they do not want to pay anything.

The second issue was the making of Sunabeda into a municipality, within which Kodinga is situated. He said early in 2014, a Minister came to a nearby town and announced that Sunabeda would be a municipality and not remain an notified area council (NAC) anymore. When we asked him how his village is now officially under an urban area, he said, “Because the government made it so.”

Ghasiram<sup>145</sup> said that during 1970s and 1980s there were many transactions between the adivasis and non-adivasis, alienating the adivasis from whatever little land they were left with. The non-adivasis always got permission from the Collector and the price paid would generally be very low.

Though he had not given us any hint of his own loss of land in the beginning, on the third day of our visit to the village, Ghasiram told us his own story of land alienation.

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<sup>145</sup> Interview on 13 February 2015. Kodegaon, Koraput.

He said his family had given out land on mortgage. It was 5.19 acres of land for which they had received Rs 6000. But the possession that went to the person from whom the mortgage was taken, was almost 10 acres. Ever since then Ghasiram's family had never been able to regain possession of the land.

In 2006, the Odisha government made a new law by which any tribal to non-tribal land transaction could be reversed if the non-adivasis could not explain how the transaction had taken place. But that notice never reached the villagers here. The clerk was there at the Tehsil office when people signed on empty papers, and Ghasi says they never got their land back.

Ghasi had lost his land to some Manoj Agarwal and his wife Anita Devi Agarwal. Though the record of rights is still in the name of Ghasi's grandfather, his family has no possession of the land. In 2013 Ghasiram was called into the Collectorate office. The clerk in the Collector's office had bought Ghasi's land from Mrs Agarwal. "They offered me Rs 5 lakh and wanted the *patta* to be transferred into their names. But I refused."

A similar case is that of Trinath Pollai<sup>146</sup> in the village, an old man who showed us his *patta* for land measuring 4.35 acres. He does not know the reason or the circumstance in which the land was lost. However he showed us the piece of land where a boundary wall had been built, and plotting had been done for housing purposes, the land being very close to the town.

There were individual patches of land alienated as a result of the land acquisition process. Jani Chuchai's father had 4.48 acres of land alienated as a result of the acquisition and received Rs 3066 as compensation. He says a part of the land was left outside the ambit of acquisition and he paid tax on the land till 1999. However, he had lost track of his land since the first HAL acquisition took place.<sup>147</sup>

The biggest concerns in the village remain two-fold. One, they want copies of their record of rights at present date, which they find very difficult to access from the government offices. Ghasiram said his major job at the village was to get hold of ration

#### ***The story of Ramu Amapariya***

*Though not a part of Kodinga, similar cases were found in nearby villages. One was the case of Ramu Amapariya. The land is in the name of his grandfather Dukhu Amapariya. He had 37 acres of total land according to the old patta. Out of that, HAL papers and agreement shows 35 acres had gone during the acquisition. Ideally he should have 2 acres of land left but he has no idea where that land is. The patta numbers are 419 (0.62 cents) and 422 (1.20 acres).*

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<sup>146</sup> Interview on 13 February 2015. Kodegaon, Koraput.

<sup>147</sup> Interview on 14 February 2015. Kodegaon, Koraput.

cards or BPL cards for villagers. We mentioned that all the documents were available online, however, the villagers did not know about this and wanted access to certified copies of land records. Multiple visits to the Tehsil office and bribes were common practice to get most documents. Because of displacement, most families did not even know if they had plots of land left and whether to cultivate. A big difference between Kodigaon and most of the other villages in the other states selected for the research would be that the villagers were completely landless: they did not even own homestead land.

The second concern in the village was about being part of a municipality now, which put them outside the ambit of PESA despite being part of a Fifth Schedule area. Sunabeda Municipality was upgraded from Notified Area Council in February 2014. 'The Fifth Schedule of the Constitution mandates laws separate from the Panchayati Raj Act and the Nagarpalika Act to administer villages and towns in tribal-dominated areas. Parliament enacted the Panchayat Extension to Scheduled Areas (PESA) Act in 1996 for rural tribal areas. But a similar legislation for urban tribal areas—the Municipalities Extension to Scheduled Areas (MESA), 2001, Bill—was not enacted.'<sup>148</sup> As an investigation by Down To Earth shows, around 181 municipalities were functioning in India across Fifth Schedule states in 2013. The Supreme Court of India dismissed a petition to keep Sundargarh district in Odisha out of the municipal purview. Despite petitions being filed across the country to keep tribal areas outside the ambit of Municipalities Act, this move is nonetheless used by state governments to remove the protective cover for tribal people and facilitate further land alienation.

### **The story of Trilochan Mudli**

Trilochan Mudli came to meet us from Pangiguda when he heard we were asking around on land acquisitions and alienations in Kodinga village. He has been fighting against the HAL management for better rights and compensation. Since 1989, he has been living within the HAL premises and farming on the land the company is not using.

"After all the years of struggle, the government is promising us houses on the hill, but we will not take it unless there are livelihood options for us. How will we earn our living by staying up on the hill?

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<sup>148</sup> Choube, J., & Basu, R. (2013, June 15). Who Dropped MESA. *Down to Earth*. Retrieved March 31, 2016, from <http://www.downtoearth.org.in/coverage/who-dropped-mesa-41200>

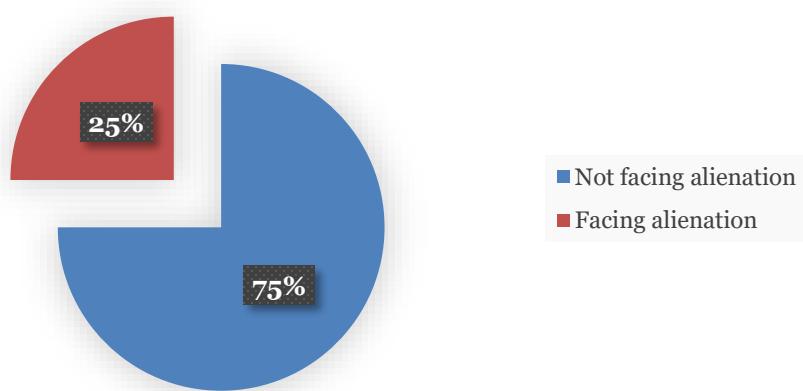
“We struggled for all these years but no one listened. In 2008, we organized a strike where almost 2500 people participated and we were called by the HAL to talk. But we were arrested and sent to jail in the same year, we remained in custody for 25 days. Once we came out, we could organize the 22 villages better. Thrice since then HAL has been forced to stop work because of the protests. In the monsoons, in August-September, they broke the jhopras (huts) we made to stay inside. But we made them again. 14 villages were completely destroyed and they don’t see the need to rehabilitate us in a proper way.”

### 3.2 Understanding Land Alienation in Beheraguda

The second village we chose for the individual in-depth study is Beheraguda in Semiliguda block in Koraput. This village is situated very close to Semiliguda town and is a part of Semiliguda Tehsil. It is adjacent to the main road that leads from Semiliguda town to the NALCO township in Damanjodi. NALCO had acquired 7263 acres of land<sup>149</sup> in 1981, and left 53 villages displaced as a result. The villagers at Beheraguda have been affected since the 1980s by continuous growth of the Semiliguda town and the township at Damanjodi. Being adjacent to the main road there is a lot of pressure to sell land in the village for housing and other pressures of urbanisation.

According to the survey conducted in the village, 22 out of 87 households could definitively say they had been alienated from their land, which amounts to around one-fourth of the households in the village.

**Table 1: Households facing alienation in Beherguda village**



<sup>149</sup> NALCO (n.d.). *Beyond Aluminium: Caring for the Community*. Retrieved March 31, 2016, from <http://www.nalcoindia.com/NalcoCSRBrochure.pdf>

Interestingly, all the households (except one) had lost their land post-1980, with the earliest loss being reported to have taken place in 1981. In the absence of land record evidence, self-reported information is important to pinpoint a timeframe for the loss.

In total, the families reported a loss of 114 acres of land, though there could be cases of double counting since more than one household could be reporting loss of the same parcel of land.

As a villager explained the process through which individual transfer of rights takes place, the system of brokerage which is common in most other states is prevalent in Koraput as well, closer to the urban areas. The person, who did not want to be named, said, “When any family faces a crisis, the news automatically reaches the interested buyers. There are people within the village who work as land brokers, and the news reaches. The buyers visit the village immediately and speak to the family in distress. In most cases they just give them some cash to help them out, and leave. The next morning they return with the official papers and get the signature of the family members who had accepted the money. If the initial amount is very small, says Rs 5000 or so, they make a paper mainly for mortgaging of the land. Whenever the family requires financial assistance, say in another year or two, the people come again and offer more money and get the land in their name. The family is sometimes called to the Tehsil office and signatures are taken on papers in front of the clerk before the transaction is sealed.”<sup>150</sup>

The second form of alienation noticed in the village was through cheating a tribal who would not know what the agreement of the sale said. He gives the consent to sell, but not an informed one. Sanyashi Srimulya<sup>151</sup>, a Rajmistri or head mason by profession, had a total of 3 acres of land. He had agreed to sell an acre to Trilochan Poria, belonging to the upper caste. The lawyer, whose name the seller mentioned as Bhogoban Petia, had made documents which increased the acreage to two acres, and also transferred an acre of land in his own name. So now all 3 acres had been lost on record while Srimulya continued to till the land.

When asked about the new law which entitled all adivasis to get their land back if the non-tribal could not prove that the transaction was lawful, Srimulya said they had never heard of it. He said that a few years ago, the revenue officer had come one day and got everyone’s signature on the paper from the village. No one in the village had had their land restored to them.

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<sup>150</sup> Sundar Mudali. Name changed. Interview on 15 February 2015. Beheraguda. Koraput

<sup>151</sup> Interview on 15 February 2015. Beheraguda. Koraput

The researchers also met four brothers Jagu Munda Gariya, Gopi Munda Gariya, Sukro Munda Gariya and Chandra Munda Gariya,<sup>152</sup> who together owned 16.53 acres of land according to old *pattas*. “On 3.92 acres of this land stands an Ashram of a ‘god man’”. Jagu Munda said, “The Ashram people approached us a few years ago and asked us to give up some land for building a road. We thought it will bring us good, and gave the land. We received no compensation for this.” A second parcel of land was bought some 30 years back by a Raut (belonging to an upper caste) who in turn sold the land to a Majhi (tribal). So this was a transaction from tribal to non-tribal to tribal again. The family heard from their grandmother much later, after the land was sold, that they had got around Rs 12000 as compensation, but could not provide any details. A boundary wall has been built around the land now.

The family has 4.95 acre for farming at present, and have no idea what has happened to the rest of the land.

Many families in the area have *pattas* or records for much larger patches of land but now have very small areas left for cultivating, and most of them do not know for sure what happened to the rest. Haribandhu Katiya<sup>153</sup> had 28.48 acres of land according to the old records he possesses, but now has around 8 acre of land, which he tills.

He could only talk about one incident of alienation where he agreed to sell 50 cent of land to Bijei Patra, belonging to the upper caste, who instead made the papers for 1 acre. Other than this no other transaction had happened in the recent past.

Many villagers, as seen in other cases, do not know for sure where their land is, and getting hold of the map for the plot is very difficult. Ramboi Lasu, a villager here who works as a daily wage labourer in the nearby town, says his father had some land though he does not know for sure where the land was. The elderly men in the village said that the block office was built on his father’s land, but he had no papers to support this.

He said there were 3-4 households belonging to upper caste families from Andhra Pradesh. He said many tribal families in the village had mortgaged their land with them for little money and lost control over their land. The upper caste families lived in a separate cluster in the village, and despite persuasions, the families refused to speak to us.

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<sup>152</sup> Interviews on 16 February 2015. Beheraguda, Koraput

<sup>153</sup> Interview on 15 February 2015. Beheraguda, Koraput

Malnutrition among children, people dependent on daily wage and uncertain work in the town, and higher costs of living due to more reliance on the market for basic necessities were common in Beheraguda village.

An interesting feature in the village was that it had three separate areas demarcated within the village. On one side lived the upper caste families, adjacent to whom lived the families who were financially better off and had some land on which they continued to farm. Across the road lived the families who had received their homestead land under Indira Awas Yojana and had no land to farm on. A few of these families were also headed by single women with no land at all, completely banking on daily wages. Land rights for women have been complicated by the marriage rituals among the adivasis in this area. The women are entitled to separation from their husbands and are allowed to remarry under certain conditions. The women do not get rights over their husband's land to ensure that they do not have control over any property when they leave their husbands. They do not claim any rights over their father's lands as well. However, women said, "The land is cultivated by the brothers and they give her some share if the produce is good in a certain year. If the woman is a widow, then it is dependent upon her relation with the sons. The sons control the land and cultivate it, but might give crops to the widowed mother. Even if the sons are good, sometimes, the husband's brother dominates the land."

The metalled road which had come up next to the village after the NALCO factory was

#### **A story of a single woman**

Padam Bilepadia died of fever or tuberculosis six years ago. Hari, his wife, has one son studying in a hostel in college and one daughter going to school. Her husband was one of two brothers. After her husband died, other members in the family snatched her share of the land. Her son wants to study and does not want his mother to get into a fight as his uncle drinks a lot and could harm his family in his absence. They do not even have ST certificate but the uncle won't help, won't give the papers required.

Hari said, if she had a little land, she would farm and have some food security. She has heard the man has managed to sell some part of the land recently for Rs 10 lakh. He gave Rs 50000 each to his own sons and daughters to celebrate.

She says if she had received her share she would have built a house for her son. But she cannot ask for any money. When she last asked, Padam's brother said, "Tera baap ka zameen hai kya ki tujhe paise doon?" (Does this land belong to your father that you will get your share?)

*Source: Interview conducted on 16 February, Kodigaon, Koraput district.*

built, has connected the village to the town easily. However, as women in the village told us, “We don’t know about the exact ownership of land previously. But we know we had plants, from which we could take fruits, like mangoes. Now they have put eucalyptus trees around for paper mills. We have lost water and fruit trees.”

Most men and women work at “boulder sites” where mountains are being broken to make new factories, roads or for other purposes. On being asked if they feel bad that they were cutting down their own mountains, few women said, “Yes we feel bad, but we know because of that we have some work. Otherwise, what would we do?” We asked if they would go back to farming. “Will we cultivate land? Yes, if we ever have any”

#### 4. Impact of land alienation

Both villages in Odisha, Kodinga and Beheraguda, have mostly households who are completely landless. Some families in Beheraguda were also living in rented houses as they had never received any land under government schemes. The villagers say that starvation deaths were unheard of since most families would manage to procure some food, but anything beyond that was not possible.

The boys studied till Class 7 or 8 and would soon start hunting for jobs as they knew “nothing would come of that education.” The girls leave school even earlier. A villager in Beheraguda said, “Things have changed now as those families who own land are secured, but do not help others in need. The landless people wake up every morning wondering if they will get work today.”<sup>154</sup>

They do not believe even education can change the scenario as they know no one who got the secured jobs promised when the HAL and NALCO factories came up. And the villagers who have land are not ready to trade it for healthcare or schooling or better roads. They say, the land is transferable to next generations, while a job cannot be transferred to a son.

Due to very few people actually owning land and most people having lost hope of ever having a piece of land to till, convincing people to speak up was difficult. They had no faith in the bureaucracy, neither were they convinced that industrialization could solve the issues they faced.

The difference between the older and younger generation was far less visible here. Young boys had also left school early and did not believe in having individual lifestyle changes. The only change that was evident was changed clothing, drinking and eating habits due

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<sup>154</sup> FGD with women. 17 February. Beheraguda. Koraput district.

to their contact with the town. As a villager said, they no longer served beef at their weddings and were secretive about eating it at home. Though chicken was much more expensive, they preferred to serve it at social functions. They drank liquor bought from stores and not the traditional 'shalab' that the elders drank. They relied more on the market forces for survival, but unlike in other states such as Chhattisgarh, their approach to land was not different from their elders.

For both the old and the young, farming on their own land was a distant dream: it was a tale that they had only heard and did not expect to become real.

## 5. Land alienation in Koraput district in wider perspective

The previous section provides detailed analysis of the experiences in the two villages visited in Koraput district. The present section will provide an overview of the relevant literature on the experience of tribal land alienation in the district as well as the state historically. The section will especially focus on faulty recording and surveys of land, and preparation of record of rights, which have made protection of tribal rights difficult.

This will be followed by a section on the relevant legal framework in the state and its implementation, evaluating the role of the administration in protecting the adivasis. The final section will look at indigenous people peopleframework in the statecivil society in safeguarding tribal rights.

### 5.1 Historical Context and land alienation in Koraput and Odisha

The undivided Koraput district was annexed by the British in 1863 though Lord Clive received the *firman* (right to collect revenue) from the Mughals almost 100 years earlier for the Jeypore area, which included Koraput. The Madras Land Estate Act guided the land regulations in the area and the Zamindari system of tax collection was applied in most parts of Koraput, which meant maintenance of land records was worse than in areas under Ryotwari system.<sup>155</sup>

In Koraput subdivision, the hill tribes were first accounted for by the British in 1918 when they made a list of "Hill Tribes" consisting of 45 groups of people, to which other groups were further added from 1918 to 1935.

The major tribes of Koraput district comprise of Gadaba, Omanatya, Porja (among whom this field work was conducted), Saura, Bhumia, Bhottadas.

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<sup>155</sup> Mearns, R., & Sinha, S. (1999). Social Exclusion and Land Administration in Orissa, India. *World Bank Policy Research Working Paper No. 2124*.

Kumar Kundan<sup>156</sup> writes in his paper on dispossession of adivasis in Odisha, 'Historically, land survey and settlements and cash land revenue monetized the economy and led to large-scale indebtedness amongst tribal societies. The princely rulers and British rulers also preferred to settle lands with non-adivasis who carried out settled cultivation, rather than the tribal practice of shifting cultivation on hills. Slowly, tribal intermediary tenure holders were replaced by non-tribal tenure holders in many areas. In the Gangpur Princely State, most *gaontias* (intermediary tenure holders responsible for rent collection) were adivasis in the early 1800s, but by 1890s there was a greater preference for non-tribal *gaontias* from Agharia and Teli castes<sup>157</sup>. Influx of non-tribal peasantry into tribal areas was actively encouraged and facilitated by the rulers, and opposition of adivasis to this influx was suppressed by force wherever required. The process of loss of territory by adivasis was aided by creation of intermediary tenure holders who were mostly non-adivasis and had effective administrative control of the area under their jurisdiction'<sup>158</sup>.

The increasing greed for forest revenue also led the British to demarcate more land as forest areas, and restrict the entry of adivasis here or their use of forest produce like timber.

As a result, he says, the loss of tribal land can be seen as happening in two major ways: 'The lowlands and paddy lands held under private ownership were lost due to influx of non-adivasis, non-recognition of rights, indebtedness and inability to pay land revenue. The shifting and swidden cultivation was lost due to notification of this land as forests or Government land.'<sup>159</sup> Both trends have continued unabated even after Independence.

Post-Independence, land alienation both through acquisitions and through individual alienation have been noted both in Koraput district and in Odisha as a whole. Since Independence, there have been almost 70 large and medium dam projects displacing more than 3.8 lakh people in the state. The three major dam projects located in Koraput are Kolab dam, Indravati and Machhakud dam, coupled with the big-ticket industry projects of NALCO and HAL. The railway line running between Koraput and Rayagada has also added to the displacement.

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<sup>156</sup> Kundan, K., Choudhury, P. R., Sarangi, S., Mishra, P., & Behera, S. (2011). *A Status of Adivasis/Indigenous Peoples Land Series: Orissa*. Delhi: Aakar Books.

<sup>157</sup> Pati, B. (1993). *Resisting Domination: Peasants, Tribals and the National Movement in Orissa, 1920-1950*. New Delhi: Manohar.

<sup>158</sup> Kundan, K., Choudhury, P. R., Sarangi, S., Mishra, P., & Behera, S. (2011). *A Status of Adivasis/Indigenous Peoples Land Series: Orissa*. Delhi: Aakar Books.

<sup>159</sup> Ibid.

Both prevention of land alienation and compensation and rehabilitation of adivasis who lost their land in the district and many other parts of the state have suffered primarily due to faulty survey-settlement in the state. The Cadastral survey in the state, which began in late 1930s and ended in early 1960s, has been criticized as it did not acknowledge and survey land with slope of more than 10 degree, which meant most hill tribes were rendered landless and illegal occupants of land they had been surviving on for generations. As Spread wrote in a study on land alienation in Koraput, 'The plots above 10 degree slopes were kept as Hill blocks divided into Ac. 40 patches and assigning different plot numbers for each patch and included in govt. *khata*. These plots are imaginary plots and un-surveyed area. Till today there is no attempt from government to survey these Hill slopes above the 10 degree slope of the high hills, which is the main source of earning of many tribal people. In this process the adivasis lost their rights on the land cultivated from generations together.'<sup>160</sup>

The communal ownership of land also made the officials record large patches of land as government land as well as non-recognition of land under shifting cultivation. In undivided Koraput, during the first Survey and Settlements (1938-1964), the Board of Revenue ruled that since shifting cultivators are not in continuous possession of land for 12 years, they can't be treated as ryots as per Madras Estate Land Act, 1908, and therefore these lands were not to be settled in their name.<sup>161</sup> Estimates have suggested that overall, almost 50 per cent of land in Koraput district was never surveyed at all. Add to this the faulty implementation of land reforms, little restoration and redistribution of land under land reforms, and little actual possession of adivasis over redistributed land for adivasis, and one has a state with a large chunk of its vulnerable tribal population rendered landless.

The second reason adivasis traditionally have lost their land in the state have been due to money-lending and indebtedness. A study in Orissa in as early as 1991 showed, in four districts, adivasis had lost 56 per cent of their private land, out of which 40 per cent was lost through mortgage and 16 per cent through sale.<sup>162</sup> Out of these, half the land was alienated through legal transfers with permission from relevant authorities.<sup>163</sup>

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<sup>160</sup> Spread for Revenue Dept of Odisha, Micro study on land issue.

<sup>161</sup> Kundan, K., Choudhury, P. R., Sarangi, S., Mishra, P., & Behera, S. (2011). *A Status of Adivasis/Indigenous Peoples Land Series: Orissa*. Delhi: Aakar Books.

<sup>162</sup> Viegas, P. (1991). *Encroached and enslaved: alienation of tribal lands and its dynamics*. New Delhi, Indian Social Institute

<sup>163</sup> Dash, S.N. (2001) *A Study of the Problem of Land Alienation in Tribal Areas with Special Reference to the District of Koraput*, Utkal University, Bhubaneswar.

The third issue that is relevant today to the people in Koraput regarding implementation of PESA and protection of land rights, which has been flagged in the case of Kodigaon village, is inclusion of Scheduled areas in municipalities, removing them from the coverage of PESA. The Bhuria committee report in 1995 had recommended Municipalities Extension to the Scheduled Areas (MESA) for urban tribal areas which was never implemented in the country despite PESA being active since 1996. The MESA Bill was introduced in Rajya Sabha in 2001 and was referred to the Parliamentary standing committee for discussion, which submitted its report in 2003. It was last listed for a discussion in the Parliament in 2010 and since then has been virtually shelved.

The Supreme Court has also dismissed petitions to not bring Scheduled areas under municipalities, which has meant it has acted as a means to facilitate wresting control over tribal land as industries are built and townships formed.<sup>164</sup> So on the one hand, adivasis in towns and municipalities are not safeguarded by any law, while on the other, they are brought under municipalities thus removing them from the protection of PESA

## 5.2 Legal framework and the role of the administration

The Odisha government after Independence had framed a series of laws to protect adivasis from alienation of land. The most important ones are Orissa Land Reform (OLR) Act, 1960 for the non-Scheduled areas and Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956 (OSATIP Regulation, 1956) for the Scheduled areas, which prevented transfer of land to non-adivasis except with the permission of competent authorities.

Two other important laws are Orissa Government Land Settlement Act, 1962 (OGLS), and the Orissa Prevention of Land Encroachment Act, 1972 (OPLA). The OGLS Act says that SCs and STs should be provided land to the extent of 70% of the state-owned land eligible for settlement in a village. This does not seem to have been followed properly. Similarly, the provision of OPLA 1972 [Section 7(2a)], regarding regularization of encroachment up to one standard acre seems to have been honoured in the breach. This is despite the fact that almost 50% of the Scheduled Tribe cultivators are marginal and landless in the Scheduled Areas, with an average landholding of 0.45 standard acres only.<sup>165</sup> The SAIP land series complains that at the current rate of land distribution, the

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<sup>164</sup> Choube, J., & Basu, R. (2013, June 15). Who Dropped MESA. *Down to Earth*. Retrieved March 31, 2016, from <http://www.downtoearth.org.in/coverage/who-dropped-mesa-41200>

<sup>165</sup> Kundan, K., Choudhury, P. R., Sarangi, S., Mishra, P., & Behera, S. (2011). *A Status of Adivasis/Indigenous Peoples Land Series: Orissa*. Delhi: Aakar Books.

government would take 70 years to distribute land to the landless tribal families, which itself is an underestimate when compared to the Agricultural Census data.

In the district of Koraput, even after allotment of land 16 per cent of families have struggled to get physical possession of their land while 6.6 per cent have either already sold or mortgaged it. The Status Report on land rights and ownership in Orissa published by UNDP also points out that section 22 of the Orissa Land Reforms Act says that “any transfer of land that belongs to Scheduled Castes and Scheduled Tribes to people who are not from this group without prior permission of the competent authority is declared void.” Sections 23 and 23A of this Act also provide for restoration of land to Scheduled Castes and Scheduled Tribes if due procedure for such transfers is not followed.

The report continues: ‘Though the law makes provisions for the protection of such allottees, such cases are rarely reported when *suo moto* action is taken. The amount of illegal land transfer that takes place is more than that reflected in government records. Similarly the restoration of land, which means ensuring of actual possession, is carried out more as an official requirement by many officials rather than an actual implementation...Thus, actual possession of the land which is lawfully given to the people by the government cannot be acquired and it is difficult to expect the restoration of illegally transferred land.’<sup>166</sup>

The survey settlement carried out in these areas has also brought questions to the fore about the role of the bureaucracy in recording land rights in the first settlement. Earlier research has documented ‘rampant rent-seeking by government officers and the manipulation of the process by the large landowners to their own advantage. Objections are invited to correct any mistakes that might have occurred during the preparation of the *yaddast* and the draft *khatiyans*. This is the primary stage of rent-seeking by officials at the settlement camp. The two common types of errors are that the land is shown in somebody else’s name, and that the area recorded (e.g., 0.75 acre) is smaller than the actual area owned (e.g., 1 acre).’ As a villager explained, the settlement process was one where the officers would “knock on the door” to collect bribes.<sup>167</sup>

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<sup>166</sup> UNDP. *Status Report: Land Rights and Ownership in Orissa*. (2008).

<sup>167</sup> Mearns, R., & Sinha, S. (1999). Social Exclusion and Land Administration in Orissa, India. *World Bank Policy Research Working Paper No. 2124*.

### 5.2.1 Compliance with PESA

The Odisha government made amendments in Gram Panchayat Act, 1964; Panchayat Samiti Act, 1959; and Zilla Parishad Act, 1991, in the year 1997 to make them compliant with PESA. While the Odisha Land Reforms Act and its provisions to prevent tribal land alienation do not extend to the Scheduled areas, Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled Tribes) Amendment Regulation, 2000 was created to safeguard tribal land in Fifth Schedule areas. ‘Moreover, for speedy implementation of the punitive provisions of the Regulation, the executive magistrates have been vested with Judicial magisterial powers to try offences under the Regulation.’<sup>168</sup>

However, in none of the areas we visited have actions been taken to restore land to the adivasis or to prevent such cases of alienation. The Tehsildars at Koraput and Semiliguda blocks told us there were no cases of alienation in the area since laws were followed strictly. However, the villagers (belonging to the Semiliguda block) told us all the revenue officers would get their “cuts” when plotting began on a piece of land. Since land prices had shot up for expansion of Semiliguda and Sunabeda towns, no one had interest in blocking such transfers. In Kodinga the villagers said the Patwari hardly ever visits the village and they had never seen the SDM or the Collector.

The OSATIP and the OGPA have some inherent clashes between them that have also remained unresolved in Odisha. According to OGPA, 1964 the powers to prevent alienation and restore land to tribal people remain with the Gram Panchayat under control and supervision of Gram Sasan, while OSATIP designates the Collector as the “competent authority” to evict unauthorized occupants from land.

‘PESA requires that this power be bestowed on both the Grama Panchayat and Grama Sasan. Instead, the state law bestows the power on the Grama Panchayat under the control and supervision of the Grama Sasan. The subject law on the other hand bestows sole power for these functions with the Collector.’<sup>169</sup>

To deal effectively with the transfers, the Odisha government amended the OSATIP Regulation, 1956, in 2002 to say that any tribal to non-tribal transfer of land would not be allowed if the remaining land with the tribal after the transfer is “reduced to less than two acres in case of irrigated land or five acres in case of irrigated land.” However, it is

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<sup>168</sup> Rath, B. (2012). A report on the functioning of PESA in Odisha. National Institute for Development Innovation.

<sup>169</sup> Bijoy, C.R., Kamodang, Martin. (2014). *Local Governance in the Fifth Scheduled Tribal Areas: A Study of Maharashtra and Odisha in the Light of PESA Act of 1996*. Working Paper Series, Indian Institute of Dalit Studies 01/2014; Volume VIII (No.2).

not clear if this will be applicable if government is acquiring land for public purpose. All transfers from Scheduled Tribes to non-Scheduled Tribes between 4th October, 1956 and 4th September, 2002 should have been proved to be legal to the Sub-Collectors concerned by 4th September 2004. Non-conformance with this would lead to the transfer being treated as illegal and persons in fraudulent possession of tribal land to be liable to a fine of up to Rs. 5000/- and two years of rigorous imprisonment.<sup>170</sup>

However, the date for this compliance has been extended and the implementation of the regulation has been far from satisfactory.

Summing up, while faulty survey and settlement have made most tribal people illegal occupants on their own lands, poor formulation and implementation of protective legal framework have further weakened the position of the adivasis vis-a-vis the state and the non-tribal administration.

As our research showed, people do not know how to easily access the maps and records of their rights. They do not know their *patta* numbers and do not even know that documents are publicly available now. Tehsildars, we were told, ask for heavy bribes for any land-related work in Semiliguda, and people were scared to go to any government offices for work. Even while announcing the village Kodigaon as a part of Sunabeda municipality no consultations were done, and the people were not aware of any Gram Sabha being held.

## 6. People's Movements for Land Rights

Adivasis in Odisha, as in other parts of India, have time and again raised their voices and arms against a state machinery that was alien to them and which tried to impose its own laws over the tribal customs and traditions.

The major revolts in Odisha were seen across the 20th century against British rule and the non-tribal local kings: the Ghumsar Risings led by Dara Bisoi, Mariah Revolt led by Chakra Bisoi, Bhuinya risings led by Ratna Naik, Dharani Meli led by Dharanidhar Naik, Sambalpur Revolt under Surendra Sai, Kalahandi Uprisings led by the Kandh tribe and Gangpur revolt led by Madri Kalo.<sup>171</sup>

Dr Panigrahi writes, 'If alienation of tribal lands in favour of non-tribal immigrants constituted an important factor of tribal unrest and uprising in the early part of the

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<sup>170</sup> UNDP. *Status Report: Land Rights and Ownership in Orissa*.

<sup>171</sup> Pattanayak, S. (2010, May 25). India vs. Indians: Revolution never ends in Orissa. Retrieved March 31, 2016, from <http://radicalnotes.com/2010/05/25/india-vs-indians-revolution-never-ends-in-orissa/>

nineteenth century, it is no less today. It has no doubt enacted laudable legislative enactments like the Tribal Land Alienation Regulation of 1956 to arrest the process of grabbing of land of adivasis by non-adivasis but the process is going on unabated and often unnoticed.<sup>172</sup> This has meant tribal movements also continue after Independence. The first uprising came in 1951—the Bhoo-Satyagraha—under the leadership of Biswanath Patnaik, who organized 30-35 villages together and made a list of encroached land. Cases were filed against the encroachers, and if a result was not achieved within a couple of hearings, the land was forcefully occupied.

This was followed by a violent movement in 1961 against the landlord Hari Misra who paid no heed to tribal pleas to return their land. The matter remained in court for eight years from 1952 but with no results, after which in 1961, adivasis forcefully occupied their land and when Hari Misra opposed it, the adivasis killed him on the spot.<sup>173</sup>

A movement relevant to the present study is the relentless struggle of tribal people against the acquisition of land in Koraput by the government for HAL. The HAL Displaced Association continues to break into the boundaries and farm and reside inside unused land in the compound. There have been multiple clashes with the police and HAL authorities. Despite breaking down of the huts inside the campus, the Association has not given up. In 2014, the adivasis sowed *niger* seeds in 50 acres of ploughed land within the campus. Hundreds of land losers protested to get adequate compensation and jobs for their lost land, under the leadership of the President of the Association, Trilochan Mudli.<sup>174</sup>

But one of the biggest revolts in Koraput district has been seen since 2004 in Narayanpatna under the banner of Chasi Mulia Adibasi Sangh (CMAS) where the members reclaimed lands from their landlords. Adivasis forcefully occupied 3000 acres of land from non-adivasis and distributed it among themselves. The leader Nachika Linga, who allegedly developed Maoist links and had 43 cases registered against him, surrendered in Koraput in October 2014.

In 2015 thousands of adivasis came together under the banner of Koraputia Jana Surakhya Sangha protesting against the Land ordinance which would dilute better

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<sup>172</sup> Panigrahi, N.P. (2011). Tribal Resistance Movement in Orissa: some reflections. *Orissa Review*.

<sup>173</sup> Mohanty B, Anuradha. K, Failure of non-violent methods responsible for Narayanpatna tribal uprising, *Orissa News*. (n.d.). Retrieved March 31, 2016, from

<http://orissadiary.com/printStory.asp?id=14813>

<sup>174</sup> Times of India (2014), HAL displaced sow seeds of protest. Retrieved March 29, 2016, from

<http://timesofindia.indiatimes.com/city/bhubaneswar/HAL-displaced-sow-seeds-of-protest/articleshow/42393711.cms>

compensation and rehabilitation for land acquisition. The adivasis presented a memorandum to the President and the Governor of Odisha asking for proper rehabilitation for HAL displacement.<sup>175</sup>

Sundergarh district also saw massive protests and brutal police repression in 2015 while protesting against including “Scheduled villages, especially Jagda and Jhartarang Panchayat into the Rourkela Municipal Corporation.<sup>176</sup>

However, people in the villages have been putting up a fight against the HAL acquisition for almost five decades now. But neither has the unused land been returned, nor has rehabilitation been provided. To give the movement credit, though, many families are still residing in the periphery despite heavy repression and trying to till the land and grow crops as well. What the movement has achieved is a level of awareness by which every displaced villager feels they deserve good rehabilitation with livelihood opportunities.

## 7. Conclusion and Recommendations

Odisha, which has failed to correct its historic mistakes with respect to creating land records and poorly implemented its multiple laws for the protection of tribal interests, has relegated its tribal population to poverty and destitution. While multiple protests continue against land grabs and loss of access to natural resources and livelihoods, the state has not been able to address to concerns of its most vulnerable population.

The following are some recommendations for the state of Odisha to address the issue of tribal land alienation in the state.

1. A second survey and settlement is immediate needed in which all the land in the state, including forest land and hill slopes, must be surveyed and record of rights given to the citizens. It is important not to consider the Cadastal survey as the base, as it would mean repeating the mistakes of 1956.
2. The new 2002 Regulation of OSATIP must be vigorously implemented, with the authority to restore land lying with the Gram Sabha. *Suo moto* action must be taken by the SDM or the Collector where the Gram Sabha is not able to address

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<sup>175</sup> The Hindu (2015), Odisha Adivasis protest land ordinance, Retrieved on 25 March, 2016, from <http://www.thehindu.com/news/national/other-states/odisha-tribals-protest-land-ordinance/article6832008.ece>

<sup>176</sup> Counterview (2015) Unrest in Sundergarh district, Odisha: Urbanization as “development” vs constitutional safeguards for tribal people, Retrieved on 25 March, 2016, from <http://counterview.org/2015/03/23/unrest-in-sundergarh-district-odisha-urbanization-as-development-vs-constitutional-safeguards-for-tribal-people/>

complaints. The onus of explanation needs to lie on the non tribal and not on the tribal for the transfer of land rights.

3. Excess land from projects like HAL which is lying unused must be redistributed by the state to landless tribal families who had given up the land in the first place.
4. Any transfer of land must be approved only by the Collector in the presence of both buyer and seller, with verbal cross-checking of the acreage of land sold, reason of sale and amount of compensation received.

## **Chapter 5**

### **Madhya Pradesh**

## Introduction

Madhya Pradesh is a state located in Central India and therefore rightly called the “heart of India”. Bhopal being the capital city, it is the second-largest state in the country by area and the sixth-largest by population. There are 46 recognized Scheduled Tribes in the state, three of whom have been identified as Particularly Vulnerable Tribal Groups (PVTGs, earlier referred to as Primitive Tribal Groups). According to the 2001 Census, the Bhil are the most populous, constituting 37.7 per cent of the total ST population in the state. Gonds follow closely at 35 per cent, followed by the Kol, Korku, Sahariya and Baiga. Together these six STs constitute 92.2 per cent of the total ST population of the state. <sup>i</sup>The Mina, Andh, Birhul, Parja and Nagesia number less than 500 each.

The total ST population of the state of Madhya Pradesh is 15,316,784 against a total population of 72,626,809 as per the 2011 census data. Thus, STs constitute 21.1 per cent of the total population of MP. The ST population has increased by 0.8 per cent since 2001. In absolute numbers, MP has the highest population of STs in the country, while it is twelfth with respect to proportion of STs to total population of the state.

The ST population in the state is overwhelmingly rural with 93.21 per cent (14,276,874) residing in rural areas, and a meagre 1,039,910 in urban areas. The sex ratio of STs in MP stands at 984 with 7.7 million males and 7.6 million females, and is lower than the national average of 990 for all STs. The highest proportion of ST population to total population is recorded in Alirajpur (89 per cent) and the lowest in Bhind (0.4 per cent).

The tribes of Madhya Pradesh are mainly concentrated in the southern, south-western and eastern parts of the state. The social customs prevalent among different tribes and castes vary based on their habitat and surrounding geographical conditions.

**Table no 1. Profile of Tribals**

Name of Tribe	Profile
Baigas	Baigas are one of the tribes found in Mandla, Balaghat, Shahdol and Sidhi districts.
Saharia	The Saharia inhabit the north-west, mainly in the districts of Gwalior, Shivpuri, Bhind, Morena, Sheopur, Vidisha and Raisen. Most Saharias are cultivators.

Bharia	The Bharia tribe is concentrated in Jabalpur and Chhindwara districts. Almost 90 per cent of the tribe lives in Patalkot in Chhindwara district. They work as agricultural labourers and produce crafts with Bamboo.
Gond	Gond is the largest tribe in state . They inhabit primarily, areas on both sides of the Narmada in Mandla, Chhindwara, Betul and Seoni and the hilly terrains of Vindhya and Satpura regions.
Bhil	Bhil, the second largest tribe, is concentrated in areas around Jhabua, Khargone, Dhar and Ratlam. They are regarded as warriors with fine inherited guerrilla tactics and archery skills.
Korku	The Korku tribal community is administered a Panchayat and are found in Hoshangabad, Betul, Chhindwara, Harda and Khandwa districts of Madhya Pradesh.
Santia	Santia is a tribe of Malwa, Mainly engaged as labourers, they are found in in Rewa, Sidhi, Satna, Shahdol and Jabalpur districts.

## 1.1 Sheopur District Profile

Sheopur is located at northern part of Madhya Pradesh and is a part of the Chambal division. It is well connected by road and railway. Some important towns in the district are Vijaypur, Karahal and Baroda. It was carved out of the Morena district in the year 1988. It has a tribal population of 23.4 per cent according to the 2011 Census. The child-sex ratio of STs in the district is 929 and the literacy rate 40.7 per cent. The tribal population in Sheopur is primarily rural, with 97.3 per cent of the ST population based in rural areas. It was chosen the study due to the following reasons:

- The district has recently seen a spate of deaths among children from tribal communities. It was reported in 2015 that 23 children had died of severe malnutrition. 57.68 per cent of children are malnourished, 2.59 per cent suffer from severe malnutrition. Madhya Pradesh performs poorly on health indicators, with 49.2 per cent of children in the state suffering from malnourishment. Compounded by the lack of health services, this translates into a high death toll.
- Drought-prone, the district also witnesses large scale migration of tribal populations to the neighbouring districts of Gujarat, Uttar Pradesh and

Rajasthan for employment. The Saharia tribe from the neighbouring districts of Shivpuri, Morena and Bhind districts also migrate, taking up menial jobs at construction sites and farms. The highest level of migration has been reported from Karahal and Vijaypur *tehsils* of Sheopur from where the working population in dozens of villages in the two tehsils have already migrated.

These indicators present the adverse conditions faced by the tribal population residing in the district and therefore it was chosen to investigate the impact of land alienation on tribal well-being.

Karahal block, which has an ST population of 62.4 percent, was chosen for the study. The two villages selected are Bankuri, with a tribal population of 91.2 per cent and Kanarkheda, with a tribal population of 67.2 per cent. The villages had also been selected on the basis of a good rapport with the partner organization who had reported a severe incidence of land alienation in the village by the recently settler community from Punjab and Haryana

## 2. Extent of Land Alienation

The extent of land alienation was analysed using a mixed methodology. Quantitative data was collected through government of land records and household Survey. This was supplemented by a close-ended and structured survey along with qualitative interactions to reach conclusive findings about the extent of land alienation, causal factors and the consequences of alienation on the tribal families living in these villages. A number of participatory research tools were applied to gather information in these villages such as Focus-group discussions, transect walks and in-depth interviews. Experiences shared by various groups, such as women, the elderly, youth and teachers; community-workers like *Anganwadi* workers; government officials like the *Patwari*. PLS was not possible in both villages due to the unavailability of revenue maps.

To map the extent of alienation we referred to the land records from eight villages, from the years 1950, 1980 and 2014.

### **Village: Rajpura**

Year	Tribal ( per cent)	Non-tribal ( per cent)	Not Marked
1950	76.82	20.77	2.4
1980	1.48	37.89	61.21
2014	87.05	12.82	0.13

**Village: Khohri**

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not Marked
1950	97.38	2.61	0.00
1980	48.5	3.00	48.5
2014	96.17	3.83	0.00

**Village: Badh**

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not-marked
1950	16.5	83.5	0.00
1980	1.2	5.19	93.77
2014	14.2	81.08	4.72

**Village: Sarari Khurd**

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not Marked
1950	14.48	84.73	0.63
1980	35.51	20.8	43.623
2014	14.87	85.13	0.00

**Village: Suswada**

Year	<i>Adivasi</i> (per cent)	Non-tribal ( per cent)	Not Marked
1950	18.54	81.46	0.00
1980	7.5	92.5	0.00
2014	18.51	81.49	0.00

**Village: Bankuri**

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not Marked
1950	56.26	40.48	3.26

1980	NM	54.42	45.57
2014	81.38	16.76	1.85

### Village: Kanerkheda

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not Marked
1950	8.68	91.31	0.00
1980	34.75	26.21	37.75
2014	27.7	72.3	0.00

### Village: Bhurwada

Year	<i>Adivasi</i> ( per cent)	Non-tribal ( per cent)	Not Marked
1950	1.66	98.33	0.00
1980	1.76	94.07	0.00
2014	Not available		

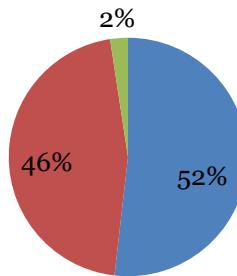
## 3. Understanding Land Alienation in Two Villages

### 3.1. Understanding Land Alienation in Bankuri Village

Chart no 1: Whether Land is Alienated

#### Land alienated

■ YES ■ No ■ Not marked



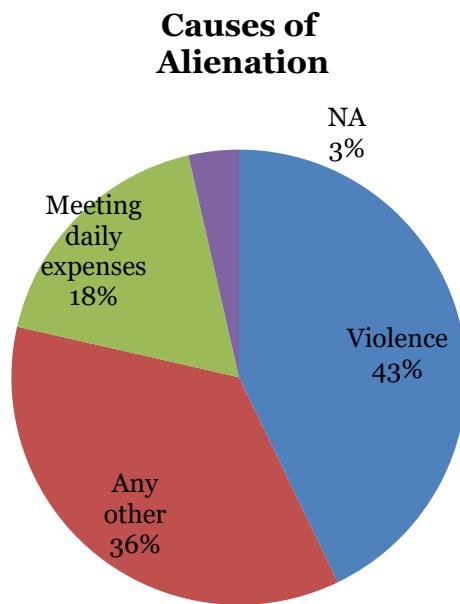
52 per cent of tribal households in Bankuri village reported that they have lost their land to non-tribals, where 46 percentage of tribals reported that land has not been alienated.

Bankuri is a small village (with 95 households) located near Karhal block with a population of around 600; tribal communities make up its entire population. Over the last ten years, non-tribal residents have built farmhouses and have started living on tribal land. While the village has a tribal *Sarpanch*, a non-tribal Secretary is conferred greater authority over decisions. Kanerkheda is located close to Bankuri but differs in terms of demographic composition and circumstances of alienation. Bankuri is dominated by Punjabi and Jat settlers who have illegally acquired land in the district.

The problem faced by this village is, after distributing the land physically, the government has not distributed the land on paper. Some tribal households face a problem where they use land but do not have supporting documents, whereas some possess documents but do not know where their land is located. The settlers take advantage of these situations, to buy land from a broker with the help of a *Patwari* and other government officials by falsifying documents of possession, showing the government or the individual illegally acquiring the land as the owner.

Tribals in Bankuri sustain themselves with small land holdings. Where non-tribal land holding has increased, the reasons behind individual transfers vary from house to house; distress sale, violence, fraud, capture (*kabza*), sale with the consent of tribals etc. Violent acquisition is the single largest process through which land is alienated.

**Chart no 2: Causes of alienation**



The situation is worse than we imagine; value for tribal ways of living in society is decreasing, where resources historically owned by tribals are reduced to only commodities for non-tribals. The administration including the local *tehsil* court functions as a mute spectator, rendering legal outcomes in favour of tribal groups ineffective. Babu Banjara<sup>177</sup>, who belongs to a de-notified tribe, narrated his interaction with the local judiciary and local power brokers during a court case he was fighting over land owned by him. His land was taken away by having him transfer ownership by misrepresenting the papers as documents for a life insurance policy. He realised that ownership had been compromised after a few years when a non-tribal started cultivating his land. A confrontation ensued where his family was physically attacked and his brother was seriously injured. Despite winning the case in a sessions court he was told that he lost the case and would have to release land to the non-tribal individual. The local lawyer responsible for fraud was himself under pressure from a non-tribal money lender. As we observed, brokers (Punjabi and Jat settlers) hunt for customers around court and highways. We came across one broker who was continuously pressuring for seeing land to buy. He also told some rules regulation for buying land, which well described in the below table. The rules are applied across Karahal *tehsil* for those who want to buy land from brokers.

**Table no 1. Land Rates and Particulars of Possession and Registry after Sale, for Land Originally Owned by an *Adivasi* in Karhal**

Type of land <sup>178</sup>	Rate	Terms and conditions
Revenue land captured by a non-tribal individual ( <i>Kabza</i> )	80,000	Possession: Sale to another individual within four years is mandatory. Registry: <i>Patwaris</i> alter the land record. Record: On stamp paper. <sup>179</sup>

<sup>177</sup> Interaction of field researcher with a resident of the village on 22 November 2015.

<sup>178</sup> A fourth type of transaction mentioned by the broker involved the sale of government-owned land captured by a tribal or non-tribal individual. The value of the sale could range from Rs. 80,000-Rs. 1.5 lakh and the individual can possess the land, unless challenged, paying a nominal fine and tax to the government. The *Patwari* receives all the money from the sale. The transfer of ownership cannot be documented; individuals involved in the transaction keep record of the sale on stamp paper, but this document has no legal value.

<sup>179</sup> Individuals involved in the transaction can keep a record the sale on stamp paper. However, this document has no legal value.

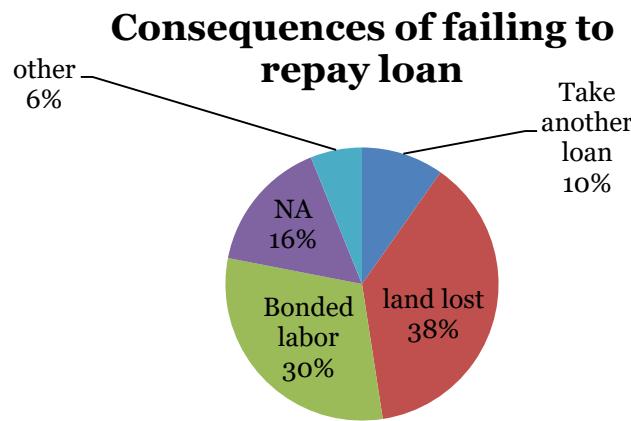
Revenue land ( <i>Patewali</i> )	2 - 2.5 lakh	Possession: Permanent, unless the individual whose land was alienated files an application with the Collector or at the local <i>tehsil</i> court. Registry: Illegal transfer of ownership by the <i>Patwari</i> .
Revenue land located by the main road ( <i>Patewali</i> )	5 -7 lakh	Possession: Permanent, unless the individual whose land was alienated files an application with the Collector or at the local <i>tehsil</i> court. Registry: <i>Benaami</i> transfers (registry on another <i>adivasi</i> 's name) are used in a majority of cases where this type of land is sold.

The life of tribal communities is inextricably linked to the land, forests and other natural resources. Land is much more valuable than its market cost when seen in this regard. Manguthakur's<sup>180</sup> case is an example and measure of the vulnerability of tribal populations and collective resources such as land owned by them in the face of local absolute power networks. Mangu Thakur is infamous for threatening *adivasis* and taking away their land through dominance and violence . A widow named Puniya was forced to leave the land she occupied by goons. She was told her that her husband has sold land to Mangu Thakur, whereas Puniya claims that her husband took only Rs. 12000/- from Mangu Thakur as a loan and returned half of it. Following the death of

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Puniya's husband some people took over five *bigha* of land for cultivating. Puniya lives alone and does not have any source for livelihood. She has approached every official for some form of repatriation or justice but to not avail. *Adivasis* incur debt for a various purposes – money for daily use, ceremonies, and education, which has consequences.

**Chart no 3: Consequences of Failing to Repay Loans**



The chart above shows that a majority of *adivasis* (38 per cent) reported that they would lose their land if they are unable to repay the loan; a large proportion said (30 percentage) that they would work as bonded labour to repay the loan. 10 per cent stated that they will take another loan.

A doctor<sup>181</sup> (traditional healer, Ayurvedic) from the village was the first whose was taken away by promising material benefits such as a bike, tractor, bore well and some cash, but except for receiving a small amount, he was not compensated as promised. This is a particularly unique scenario where settlers have the power and confidence to exploit *adivasis* through loan which leads to *adivasis* losing their land. Since the practices of cultivation have been changing in *adivasi* culture as well due to the insufficiency of the produce – even for subsistence generated by small landholdings, *adivasis* have to now spend a lot more on cultivation as they incur expenses on seeds, tractors, bore wells (if not a well, then on payments for water), manure, wages for hired labour, travel charges. The local lenders mainly belonging to the Jat and Punjabi communities are reported to extensively use illegal measures such as procuring signatures and thumbprints on blank sheets of paper, in effect acquiring consent without sharing due information or include

<sup>181</sup> Interaction of researcher with resident of village on 22<sup>nd</sup> November 2014

unfair clauses in bonds. Share cropping in which half the produce of the mortgaged land goes to the lender for an infinite period of time is another unfair practice prevalent in this area. Raguram<sup>182</sup> informed the researchers that he had to give his land to a moneylender after the moneylender threatened him to recover the loan. Sitaram<sup>183</sup> stated that his land was located between two plots of land where a large farmhouse had been built by the Punjabi owners. To procure the neighbouring plot belonging to Sitaram, the family resorted to pressure tactics such as restricting entry, water supply and stopped lending money to Sitaram. Eventually Sitaram was pressured into selling the land to the family. During fieldwork, we were informed about three such similar cases of *adivasis* losing their land.

Bharat Kumar<sup>184</sup>, a *Patwari* who claims to help *adivasis* to keep their land secure, has been transferred three times and also received death-threats from the Jat and Punjabi community. He explained some of the practices involved in illegal transfers. Predominant among them is the sale of land through bond paper, *Danpatra* (gift deed) and direct transactions. He also mentioned that there are tracts of unclaimed land which did were distributed correctly to the farmers, but the *Patwaris* has handed this land to Punjabis, Brahmins and Jat settlers, without the *adivasis* knowledge.

While survey and settlement operations were on, when the government redistributed land, it did not inform the *adivasis* where the land they owned was located. As a result, most families were not farming the plot they legally own, in Bankuri. This makes them vulnerable to alienation since they do not possess the record of rights for the land they possess.

Hari<sup>185</sup>, one of the *adivasis* we interviewed narrated an incident where when he went to register his land at the *tehsil* office, the concerned officer asked for Rs 50,000 for registration of the plot his family had been cultivating for five decades. He said that it was impossible for *adivasis* to pay that much for the registration, pointing out, “आदिवासी के पास रटा हैं, पर रटा नहीं हैं” (*Adivasis* have land, but no record to show for it).

Laws meant to protect *adivasis* have been ignored to facilitate the acquisition of tribal resources. The money lender, Mangu Thakur, who reportedly has political connection, has allegedly grabbed huge tracts of tribal land. The district collector himself claimed

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<sup>182</sup> Interaction of researcher with resident of village on 22<sup>nd</sup> November 2014

<sup>183</sup> Interaction of researcher with resident of village on 23<sup>rd</sup> November 2014

<sup>184</sup> Interaction of researcher with resident of village on 24<sup>nd</sup> November 2014

<sup>185</sup> Interaction of researcher with resident of village on 26<sup>nd</sup> November 2014

that lots of land has been grabbed by the Punjabi and Jat community in Karahal block. But he said that *adivasis* do not get actual possession of land even if it is restored to them.

The table below draws data from the FGDs<sup>186</sup> and lists the actors and practices adopted by them to dispossess *adivasis*.

**Table no 2. Actors and Processes Facilitating Land Alienation**

Main actors involved in the process of alienation	Ways of land alienation
<i>Patwari</i>	Selling unregistered land.
Settlers from Punjabi and Jat community	Directly possessing tribal land using violence. Acquired possession by lending money to <i>adivasis</i> .
Settlers from other states	Buy land to build farm houses.
Village broker	Spreading rumours of impending acquisition.
Political and administrative actors	Pressurised to allow tribal to non-tribal land transactions
Other factors	Low employment opportunities, low rainfall, unviable farming, aspirations for commodities like tractors and bikes.

Given the factors such as the excessive demographic pressure on land resulting in small landholdings; depleting forest cover which is one of the main sources of sustenance for *adivasis*; MNREGA not providing adequate employment; exploitation from local money lenders, contractors and other informal sources; sub-par educational facilities such as the absence of educational institutions for those who have passed their 10<sup>th</sup> standard and abysmal condition of hostel facilities for young students; sustenance farming/agriculture is the only activity that tribal population has been dependent upon for their survival lately.

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<sup>186</sup> Interaction of researcher with resident of village on 26<sup>nd</sup> November 2014

The last option available to *adivasis* is agriculture, but even that is not easily available to them. *Adivasis* have had to go through many processes and face mighty challenges for producing sufficient food for family. The Patel<sup>187</sup> reiterated this, claiming that as compared to their forefathers farming has become expensive for *adivasis*. The same idea was reflected repeatedly in interviews with other people of the village.

**Table no 3. Agriculture Practices and Costs for *adivasis*** <sup>188</sup>

Present day		Earlier	
Service	Price	Service	Price
Tractor	700 per hour	Ox/ buffalo	---
Fertilizer	1200 per 50 kilo	Fertilizer	---
Seeds	1000 to 1500	Seeds	---
Water	Have to share 1/4 <sup>th</sup> of the crop	Rainfall/ ponds /wells	---
Labour	200 per day	Labour	Mutual understanding
Land tax	6 rupees per acre	Land tax	1-2 rupees per acre
Loans and interest	15 per cent	Loans and interest	As assistance, when required

### 3.2 Understanding Land Alienation in Kanerkheda Village

*“What will we do if you claim our land as yours? Where will we go? The poor people have no mechanisms of availing justice because nobody supports the hearing of a poor man,”* said Badri, a 55 year old man belonging to the Sahariya tribal community, confirming that he had lost his land.

Badri belongs to the village of Kanerkheda which was the second village visited as part of the study. Kannerkheda is a small village located in the interiors of Sheopur district. The Sahariya are the largest tribal community in the village. Badri narrated the life of *adivasis* in the village of Kanerkheda which has been outlined in the following points:

<sup>187</sup> Interaction of researcher with Patel ( who collects tax ) of village on 25th November 2014

<sup>188</sup> Interaction of field researcher with resident of village on 25<sup>nd</sup> November 2014

- Two decades ago, little farming was possible because there was lack of water and all the cultivation was entirely dependent on rain. Now, due to irrigation facilities and the availability of bore-wells, agriculture is practised by many more people.
- Earlier *tilli, jwar, bajara, makka* were the main crops grown by the tribal but now there is a shift towards *sarso, gehu, chawal, chana* because the settlers from Punjab, Haryana who have come and taken over tribal land grow these crops due to the higher demand and price in the market. These crops also do not require much water and hence are easier to cultivate.
- In addition he said that *adivasis* were previously dependent on forest produce. The entire village was covered by trees and villagers would collect 'Mahua'. Forest cover has decreased now, making it difficult to obtain forest produce. *Mahua, tendu, gond, sag sabjee, torai, pamaar* were earlier collected from the forest but are now unavailable. These forest products were used for daily consumption and *Mahua* was sold as liquor which would provide some income to the tribal families. However, now due to the unavailability, the income generated from these had decreased, which has further pushed tribal communities towards farming.
- Tribal used to own lots of land as they cleared land to make it cultivable, but settlers people settled in neighbouring villages are grabbing tribal land. In addition he said that settlers have money, and resources to develop farming where they can earn a lot of money from agriculture but a tribal individual cannot, as they always lack resources and money.
- Non-tribals push *adivasis* to sell land. Mostly, they do not sell their land willingly but under pressure from the settlers from Haryana and Punjab.

It emerged from in-depth interviews that land grabbing was a common experience for *adivasis* in this village. The processes used often for grabbing land from tribal were shared as follows-

- Tribals forcefully pushed to sell their land
- Land-grabbing without payment or intimation ( with help of the *Patwari* by acquiring information of land that has a *patta* )
- Some people have sold their land out of need (marriage etc.)

According to Badri, the *Sarpanch*, Secretary, *Tehsildar*, and *Patwari* were involved in grabbing land of *adivasis* and helped each other to get a commission from the deal. He also had a bad experience in the Tehsil office of Karaha lBlock where most of the officials

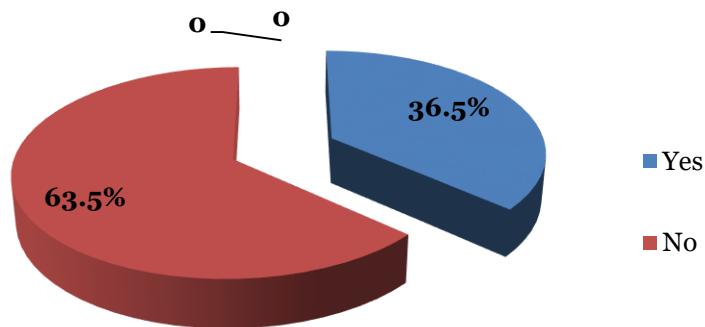
insulted him and denied help regarding his case, cancelling his application for land restoration. After the land grabbing, Badri is not able to feed his family even two meals a day. He has become an agricultural labourer and works 12 hours a day earning only Rs. 150-200 per day. The Thakurs get the land by claiming a vacant *patta* and paying a bribe to a *Patwari*. According to him, the non-tribal also claimed land belonging to the forest department by paying bribes to the government officials. Non-tribals were influential, had muscle power and due to this could bribe the government officials and grab land from the tribal by threatening them.

Let us now look at the quantitative data which supported our findings from the qualitative sources in the village.

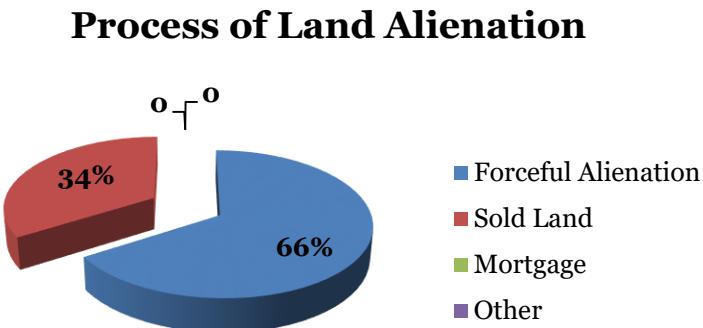
A survey was conducted in 63 households of the village out of which 23 households reported land alienation, while 42 households reported no alienation. The percentage of land alienation is depicted in the pie chart below:

**Chart No. 4: Land Alienation**

**Has land been alienated?**



When asked about the process of Land Alienation, 24 households stated that they had to give away land due to forceful alienation. These households were victims of land grabbing. The remaining 12 households stated that they had sold their land due to their low socio-economic status and their inability to survive without money. None of the households reported putting land on mortgage. The percentages are depicted below in a pie chart:

**Chart No. 4: Process of Land Alienation**

**Reasons for Alienation:** The reasons for land alienation in the 36 house-holds are further outlined in the table below. It was observed that an alarming number of households faced violence and reported it as a major reason of land alienation. The breakup of their responses is given below:

**Table no 4. Reason for Land Alienation**

Reasons	Number of Individuals
Daily Expense	9
Agricultural Expense	0
Social Function	0
Health related	3
No response	0
Last rites of family members	0
Violence	24

The land was generally lost by the forceful capture by influential community members living in the same village or neighbouring villages. The upper caste Thakurs formed allegiances with the government officials and bribed them to ignore cases of land grabbing. Few households also reported land alienation to brokers who would further sell it to real estate agents for commercialization. Six households reported selling their land to tribal individuals for monetary reasons. The breakup of responses is depicted in the table below:

**Table no 5: Individuals to Whom Land Lost**

Land lost to whom	Number of individuals
Bank	0
Broker	6
Non-tribal	24
Tribal	6
No response	0
Don't Know	0

#### 4. Processes of Land Alienation and their Impact on Tribal Well-being

Land is usually grabbed forcefully by a single person or a group of people of the village who are influential and powerful. They have grabbed thousands of *bigha* and local villagers fear them. This is because of death-threats given to their families or and threats to have the male members imprisoned. These influential people reportedly belong to the upper caste community and are non-tribal. *Adivasis* think it is better to give away their land rather than giving away the lives or putting the lives of family members and children into danger. Thus, land is lost under severe threat.

Non-tribals manipulate *adivasis* with the promise of money for their children, food grains to their family and also provide other agricultural inputs such as tractors which will help improve the harvest. However, none of the promises are kept and once the land is given to a non-tribal, they do not pay heed to the needs of the *adivasi* family. Non-tribals also manipulate *adivasis* into signing or putting a thumb imprint on stamp paper. Legal recourse is not taken later due to the lack of knowledge and fear.

Sometimes, *adivasis* are unaware of the monetary value of their land and sell it for extremely low sums. A tribal, Dhaniram reported that he had sold his land at Rs.50 per *bigha*, at a time when the he actual market rate was Rs.5000 per *bigha*. The *tehsildar*, *Patwari* and other government officials who were involved in this transaction did not quote the actual rate and received a commission in return.

### **A Villager's account of life in the village after land alienation and advent of modernization**

*"The villagers used to live in huts made of hay and grass which had no roofs. There was no security and the surroundings were unsafe. Food was scarce as we did not have any knowledge about the varieties of crops. Also farm land was less as most of the area was covered by forests and our existence depended on forests. Whether it was our basic need or an emergency the villagers would get their remedies from the forests. But now the attachment with the forest has diminished. The newer generation is getting increasingly detached from the forests and dependent on commercial products sold in towns.*

*Earlier, there was more rain- sometimes it rained continuously for four months. During this time, we would grow Bajra on and the harvest would suffice for our entire year.. But today, the cycle of seasons has changed. Rains have decreased and crops grown have also changed. Crops are grown for selling in the markets and not for subsistence. Those who grow for subsistence have far less land that do not yield sufficient produce.*

*The biggest problem is the lack of water. Those who have money use motor pumps for generating water for irrigation and other purposes. Underground water levels are diminished faster due to which the hand pumps and other natural resources like ponds have become dry.*

*Earlier, we used to worship trees and there were very limited festivals which we used to celebrate. But nowadays there are newer festivals that the younger generation celebrates such as Holi and Diwali. The influence of settlers from Haryana and Punjab has affected our traditions and customs, apart from our lives."*

During our stay in the villages of MP, through interactions with *adivasis*, non-tribals, government officials and other members of the community, it emerged that the police, leaders and local administration are complicit in both, recorded/official and unofficial land transactions. Although non-tribals claim that they have brought prosperity to the *adivasis* and have given a way of life, a settled agriculture from nomadic life. Life for *adivasis* has been severely impacted, both, in terms of livelihood and culture.

## 5. Tribal Land Alienation in the Wider Context

### History of Land Administration in Madhya Pradesh

The entry of colonial power into the area that constitutes Madhya Pradesh today was late compared to other Northern regions such as the United Provinces of Bihar, but beginning in 1819 the British rapidly introduced complex land revenue settlements in the region to supplant the existing ones<sup>189</sup>. A range of tenurial arrangements were used, from the *Mahalwari* system<sup>190</sup> to the *Khalsa* system<sup>191</sup>, while some parts had *Ryotwari*<sup>192</sup> and others the *Izradari* system<sup>193</sup>. An official lack of understanding of the working of these systems led to a subsequent mass alienation of forest lands affecting approximately 10 lakh families in Madhya Pradesh, predominantly tribals (described in detail in a subsequent section titled “Orange areas dispute”).

Central Provinces Land Alienation Bill (1 of 1916) was one of the early protective laws passed by the colonial government, aimed at statutory protection for aborigines living in well-defined areas and at restricting the alienation of their proprietary lands<sup>194</sup>, but it was not successful in checking the exploitation of *adivasis*<sup>195</sup>.

Several important uprisings against the autocratic regime took place amongst the *adivasis*, such as the Koi revolution of Bastar (part of the erstwhile joint state of Madhya

<sup>189</sup>SudhaPai (2010), *Developmental State and the Dalit Question in Madhya Pradesh: Congress Response*, New Delhi: Routledge

<sup>190</sup> System of land revenue where the settlement was made directly with the village or the ‘Mahal’ by the Settlement Officer, who fixed the rent with the consultation of ‘Lambardar’ and the rent was to be paid by the cultivating tenants. Further details available at:

[http://shodhganga.inflibnet.ac.in/bitstream/10603/13529/14/14\\_abstract.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/13529/14/14_abstract.pdf) (Accessed 3rd February 2016)

<sup>191</sup>Khalsa, or the royal land was under the direct supervision and control of the government, and was managed through agents or Amils. Further details available at:

<http://www.yourarticlelibrary.com/history/brief-notes-on-the-land-revenue-system-of-sultanate-period/4344/> (Accessed 3<sup>rd</sup> February 2016)

<sup>192</sup>Ryotwari system was the revenue settlement in which the peasant was recognized as the owner of land. Further details available at: <http://www.importantindia.com/11280/ryotwari-and-mahalwari-system-in-british-india/> (Accessed 3<sup>rd</sup> February 2016)

<sup>193</sup> In the Izradari system introduced by Warren Hastings, the right to collect revenue was given to the highest bidder, known as the Contractor, for a period of five years. Further details available at:

<https://quizlet.com/24857172/ch4-rural-life-and-society-flash-cards/> (Accessed 3<sup>rd</sup> February 2016)

<sup>194</sup> Harsh Mander (2002), ‘Tribal Land Alienation in Madhya Pradesh: A Brief Review of the Problems and the Efficacy of Legislative Remedies’ in Praveen Jha (ed.), *Land Reforms in India: Issues of Equity in Rural Madhya Pradesh*, Vol 7, Sage Series on land Reforms in India, New Delhi: Sage Publications, pp. 277-315

<sup>195</sup>SudhaPai (2010), *Developmental State and the Dalit Question in Madhya Pradesh: Congress Response*, New Delhi: Routledge

Pradesh, now a part of Chhattisgarh). The *adivasis* refused to accept the decision of the British, which offered the contracts of cutting *Sal* trees to people outside the region of Bastar<sup>196</sup>.

At present, the position of *adivasis* vis-à-vis the restoration or possession of alienated land is dismal. As of 2007, not a single case out of 29,596 cases of alienation and restoration of tribal land has been ruled in favour of the tribals in Madhya Pradesh<sup>197</sup>.

Several recommendations and alternative measures have been suggested to counter the issue of tribal land alienation. One important alternative model has been provided by Usha Ramanathan<sup>198</sup> who argues for the concept of 'common property resources' (CPRs) as a social and institutional arrangement to meet the requirements of everyday lives of villagers, particularly in states such as MP, where irrigated land is a small proportion of the cultivated area and lands are often left fallow after a single crop<sup>199</sup>. CPRs, as defined by Jodha, are "community's natural resources, where every member has access and usage facility with specified obligations, without anybody having exclusive property rights over them"<sup>200</sup>.

The Report of the Scheduled Areas and Scheduled Tribes Commission has made the following recommendations<sup>201</sup> for countering the issue of tribal land alienation:

1. There is need for a detailed scrutiny of all legislation affecting tribals' lands;
2. The complicated procedures also need to be examined.
3. It may be necessary in many cases to amend the present laws.
4. If this is likely to take time, the Governors may in exercise of the powers conferred on them under Vth schedule, issue the necessary regulations without delay.

The following section discusses two of the major issues that arose in the area of Madhya Pradesh amongst the tribal population. Although not directly related to individual

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<sup>196</sup><https://anarchyindia.wordpress.com/the-tribal-revolt/koi-revolt-1859/> (Accessed 13<sup>th</sup> March 2016)

<sup>197</sup> Ministry of Rural Development (2007), Madhya Pradesh, 'Annual Report 2006-07', *Government of India*, Available at [http://rural.nic.in/sites/downloads/annual-report/annualreport0607\\_eng.pdf](http://rural.nic.in/sites/downloads/annual-report/annualreport0607_eng.pdf) (Accessed 13th March 2016)

<sup>198</sup> UshaRamanathan (2002), 'Common Land and Common property Resources', in Praveen K. Jha (ed.), *Land Reforms in India- Volume 7: Issues of Equity in Rural Madhya Pradesh*, New Delhi: Sage, p. 204

<sup>199</sup> M.N. Buch (1991), *The Forests of Madhya Pradesh*, Bhopal: MP Madhyam

<sup>200</sup> N. S. Jodha (1995), 'Common property resources and the environmental context', *Economic and Political Weekly*, 23 December, pp. 3278-284

<sup>201</sup> Scheduled Area and Scheduled Tribes Commission (1961), 'Report of the Scheduled Area and Scheduled Tribes Commission, 1960-61' Volume 1, Delhi: Manager of Publications

alienation of land, these issues have been crucial in defining the position of tribals and their autonomy in forest land and in deciding their rights over community resources.

### 5.1. Orange Area Dispute

The Orange Area land dispute resulted from the lack of coordinated functioning amongst the Forest Department and Revenue Departments, confusion in interpretation of the *Zamindari/Malguzari* Abolition Act 1950, the State Land Revenue Codes and faulty adoption of administrative and political mechanisms. This is arguably the most serious issue with policy and legal implications in the State of MP (and Chhattisgarh<sup>202</sup>). Lack of co-ordination between Revenue and Forest Department has resulted in claims and counter- claims for the same land. Due to this negligence on the part of the States to resolve the contentions on the 'Orange Areas' (named thus as the areas that were left outside the protected forest compartments were depicted with the color orange<sup>203</sup>), its boundaries and jurisdiction, the fate of about ten lakh families, predominantly *adivasis* (approximately 80 lakh throughout India) living off the forests, is uncertain<sup>204</sup>.

Interpretation relating to the definition of forests, erroneous and varying interpretation of the forest boundaries, has resulted in exploitative steps to evict tribals from their rightful lands. The *pattas* given on their lands stand cancelled today and thousands of poor and vulnerable people face the prospect of eviction and destitution, not to mention the loss of *nistar*<sup>205</sup> rights. The Supreme Court on August 24, 2007, ordered Chhattisgarh and Madhya Pradesh governments to respond to a petition to clarify the status of at least 1.2 million hectares<sup>206</sup>.

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<sup>202</sup> The state of Chhattisgarh was carved out of the state of Madhya Pradesh in the year 2000.

<sup>203</sup> Sanjay Upadhyay, 'Tribals and their Land: Legal issues and Concerns with Special Reference to Andhra Pradesh and Madhya Pradesh', available at

[https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjk8NO10sLLAhVMI44KHZTmbT4QFggbMAA&url=http%20per%20cent3A%20per%20cent2Fper%20cent2Fsiteresources.worldbank.org%20per%20cent2FINTINDIA%20per%20cent2FResources%20per%20cent2Fsanjay\\_upadhyay-paper.doc&usg=AFQjCNF-8HgOkigld740bgZoy4WT3ZSwsg&sig2=JRx73xn5sEQJGv9uzZKIA&bvm=bv.116636494,d.c2E](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjk8NO10sLLAhVMI44KHZTmbT4QFggbMAA&url=http%20per%20cent3A%20per%20cent2Fper%20cent2Fsiteresources.worldbank.org%20per%20cent2FINTINDIA%20per%20cent2FResources%20per%20cent2Fsanjay_upadhyay-paper.doc&usg=AFQjCNF-8HgOkigld740bgZoy4WT3ZSwsg&sig2=JRx73xn5sEQJGv9uzZKIA&bvm=bv.116636494,d.c2E) (Accessed 31 December 2015)

<sup>204</sup> <http://www.orangearea.org/> (Accessed 06 January 2016)

<sup>205</sup> 'Nistar' means the concession granted for removal from forest coupes on payment at stipulated rates, specified forest produce for bonafide domestic use, but not for barter or sale. Further details available at: <http://www.mahaforest.nic.in/internal.php?id=30> (Accessed 26<sup>th</sup> January 2016)

<sup>206</sup> <http://www.downtoearth.org.in/news/dispute-over-status-of-forestland-in-mp-chhattisgarh-6674> (Accessed 10th March 2016)

## 5.2 Joint Forest Management

One of the innovative schemes developed for ensuring community rights in the management of forests, particularly for the *adivasis*, was the initiation of the system of Joint Forest Management, also known as the ‘Harda Model’ or the Cambridge-Harda project. Participatory forest management was introduced in Harda in the early 1990s by a Divisional Forest Officer who had been inspired by other examples of community action for the protection of natural resources<sup>207</sup>. The Madhya Pradesh JFM resolution was first issued in 1991, and has been amended three times since<sup>208</sup>. This was adopted on a nation-wide scale after its success in Harda in the initial years.

The objective is to give a role to the resource users in the protection and regeneration of forest lands in return of their rights over the use of certain forest products. The two-pronged strategy was to improve the quality and extent of forest cover in the country through better protection and regeneration; and to improve the livelihoods of forest-dependent communities, especially marginal and tribal groups<sup>209</sup>. The strategy developed to promote forest protection was based on the idea of “social fencing”, under which villagers would ensure that their cattle would not disturb regeneration areas<sup>210</sup>.

However, the implementation of the mechanism has come under a lot of scrutiny and debate, particularly by the Mass Tribal Organizations (MTOs). They were critical of the process by which the project had been developed, which had not included adequate consultation with tribal peoples who were affected by the project<sup>211</sup>. In an open letter to the World Bank, the tribal representatives argued:

*For us the MPFP and other such projects have meant an increasing threat to our rights over our land, our rights to extraction of forest produce, the loss of our grazing lands our fishing rights. It has meant increasing violence against our people. It has*

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<sup>207</sup>BhaskarVira (2005), ‘Deconstructing the Harda Experience: Limits of Bureaucratic Participation’, *Economic and Political Weekly*, November 26, pp. 5068-75

<sup>208</sup> Cambridge Harda Policy Paper 01, ‘Joint Forest Management in Harda’, available at <http://www.geog.cam.ac.uk/research/projects/harda/reports/B10-PolicyPaper1.pdf> (Accessed 6 January 2016)

<sup>209</sup> Cambridge Harda Policy Paper 01, ‘Joint Forest Management in Harda’, available at <http://www.geog.cam.ac.uk/research/projects/harda/reports/B10-PolicyPaper1.pdf> (Accessed 6 January 2016)

<sup>210</sup>BhaskarVira (2005), ‘Deconstructing the Harda Experience: Limits of Bureaucratic Participation’, *Economic and Political Weekly*, November 26, pp. 5068-75

<sup>211</sup>Anon (1998), ‘Facing Eviction’, *Down to Earth*, January 31

*deliberately attempted to foster conflicts among our people in the old colonial tradition of “divide and rule”*<sup>212</sup>.

Vira points out that the hierarchical and unequal relationship between the state and local people has not changed in the actual implementation of JFM<sup>213</sup>.

Kashwan, in his response to Vira’s paper, further argues that the conflict is not just between the MTOs and the state authorities, but that the overall project has come to be elite captured, overlooking how important concepts such as “encroachment” have been designed and how forests have in fact been demarcated<sup>214</sup>. Marginal farmers and landless families gained little from the village resource development programme<sup>215</sup>.

### 5.3 Present Status of Land Laws in Madhya Pradesh

Article 46 of the Constitution, under the Directive Principles of State Policy mandates that the state, *inter alia*, protect the Scheduled Castes, Scheduled Tribes and other weaker sections of the society from social injustice and all forms of exploitation. The Supreme Court, while interpreting this Section has held that a law prohibiting transfer of land belonging to a member of a Scheduled Tribe to a non-tribal is valid<sup>216</sup>.

The state of Madhya Pradesh came into being after the reorganization of states in 1959 and the Madhya Pradesh Land Revenue Code (MPLRC, hereinafter referred to as the Code) was introduced in the same year. In Madhya Pradesh, “All lands belong to the State government ... including standing and flowing water, mines, quarries, minerals and forests reserved or not, and all rights in the sub-soil of any land are the property of the State Government” (Section 57 clause 1).

Section 165(6) of the Code debars the transfer of agricultural land belonging to tribals in an area ‘predominantly inhabited’ by tribals [6(i)] and in other areas, the transfer requires the permission of Revenue Officer with reasons recorded in writing [6(ii)]. A later amendment in 1981 added the sub-section 6-C, which lays down the principles and facts which are to be considered by the Collector while granting or refusing to grant permission. These are:

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<sup>212</sup> Text of open letter reproduced here. Available at

<http://forests.org/archive/asia/indpocwb.htm> (Accessed 6 January 2016)

<sup>213</sup> BhaskarVira (2005), ‘Deconstructing the Harda Experience: Limits of Bureaucratic Participation’, *Economic and Political Weekly*, November 26, pp. 5068-75

<sup>214</sup> PrakashKashwan (2006), ‘Why Harda Failed: A Response’, *Economic and Political Weekly*, June 17, pp. 2497-99

<sup>215</sup> R.K. Bhogal and T.S. Bhogal (2000), ‘Joint Forest Management in Harda’, Draft Paper for the CIFOR Research Project for *Creating Space for Local Forest Management*, Bhopal

<sup>216</sup> Lingappa v State of Maharashtra, AIR 1985 SC 389

- a) Whether or not the person to whom land is being transferred is a resident of the Scheduled Area;
- b) The purpose to which land shall be or likely to be used after the transfer;
- c) Whether the transfer serves or is likely to serve or prejudice the social, cultural and economic interest of the residents of the Scheduled Area;
- d) Whether the consideration paid is adequate; and
- e) Whether the transaction is spurious, fictitious or *benami*

As has been noted by a study by the Tribal Research Institute of Madhya Pradesh (1973) “...All other clauses in the interest of the aborigines seem to be overshadowed by this (Section 165-C) and transfer of the land from the tribal to the non-tribal is a regular feature”<sup>217</sup>. The study noted that out of the 225 cases for repayment of loans, 102 (about 45 per cent) were just for repayment of Government dues/loans.

A significant provision enabling Collectors to suo-moto or on application, enquire into the bona fides of a transfer within three years of transaction, was included by sub-section (6-B) of section 165. Explanation (b) to sub-section (6-C) provides that the burden of proving that the transfer was not spurious, fictitious or benami shall lie on the person who claims such transfer to be valid.

Section 170-A is an important provision that stipulates the restoration of land that has been transferred in contravention of Section 165(6), Section 169 or Section 190. Similarly, Section 170-B provides for the reversion of land of members of aboriginal tribes which was transferred by fraud. However, Section 170-C bars the appearance of advocates in proceedings under sections 170-A or 170-B, while Section 170-D bars second appeal against orders passed under Sections 170-A or 170-B.

Mander in his review of Sections 170-A and 170-B of the Code records that based on official statistics up to September 1997, 13.15 per cent cases still remain pending in various courts and possession of land in cases of restoration has only been 35.83 per cent<sup>218</sup>. Some difficulties noted by two unpublished studies by the Tribal Research and Development Institute, Bhopal<sup>219</sup>:

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<sup>217</sup> M Amanullah (1973), 'Study on the Problems of Land Alienation from Tribals to Others in District Shahdol', Bulletin, Volume 10: 1&2, Bhopal: The Tribal research and Development Institute, pp. 17-33

<sup>218</sup> Harsh Mander (2002), 'Tribal Land Alienation in Madhya Pradesh: A Brief Review of the Problems and the Efficacy of Legislative Remedies' in Praveen Jha (ed.), *Land Reforms in India: Issues of Equity in Rural Madhya Pradesh*, Vol 7, Sage Series on land Reforms in India, New Delhi: Sage Publications, pp. 277-315

<sup>219</sup> Harsh Mander (2002), 'Tribal Land Alienation in Madhya Pradesh: A Brief Review of the Problems and the Efficacy of Legislative Remedies' in Praveen Jha (ed.), *Land Reforms in India: Issues of Equity in Rural Madhya Pradesh*, Vol 7, Sage Series on land Reforms in India, New Delhi: Sage Publications, pp. 277-315

- a) Implementation difficulties, especially with regard to Section 170 B of the Code under which cases have not even initially been registered in a majority of cases. This difficulty gets further magnified in the case of benami transfer of land.
- b) Prolonged litigation and nature of legal system: non-tribal litigants often get around the restriction of Section 170 D by resorting to revisions which are not barred.
- c) Difficulties of interpretation: There are serious ambiguities in the drafting of Section 170 B which leads to vastly varying judicial interpretations.
- d) Applicability to non-agricultural land: Since the law only applies to agricultural land, the area of transfer of non-agricultural land remains unlegislated.
- e) Indebtedness as a major cause for the alienation of tribal land.
- f) Awareness and mobilization with regard to Sections 165(6), Section 170 A and Section 170 B are very low among tribal communities.

Another important law with regard to tribal land is the Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA). The M.P. Panchayat Raj Adhiniyam (Act), consolidated in the year 1994, establishes the Panchayats with a view to ensure effective involvement of the Panchayati Raj Institutions (PRIs) in local administration and developmental activities. The Government of M.P. has enacted the Panchayati Raj Dwitiya (Sansodhan) Adhiniyam 1997 to conform to the Central Legislation of PESA. Subsequently, it was substituted with the MP Panachayati Raj Avam Gram Swaraj Act (MPPRGSA) in 2001 wherein the PESA provisions were incorporated.

Madhya Pradesh has proceeded with accepting the provisions of PESA unequivocally as constitutional provisions<sup>220</sup>. Accordingly, the management of natural resources, under section 129c (iii) of the Madhya Pradesh Panchayat and Gram Swaraj Act, is envisaged to be ‘in accordance with its tradition and in harmony with the provisions of the constitution.’ Thus nothing in the tradition of the community can be invoked that may be against the basic tenets of the constitution. In so far as the ordinary laws on the subject are concerned, the said provision of the Madhya Pradesh Act envisages ‘due regard to the spirit of other relevant laws for the time being in force’.

In MP, *Panchayats* were assigned a supporting role to the *Gram Sabha*. For instance, The Land Revenue Code was amended to empower *Gram Sabha* to prevent unlawful alienation of land and restoration of unlawfully alienated lands. It provides that if a

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<sup>220</sup> CPI(ML) (2010), ‘Report on Undermining and Betrayal of PESA’, *Liberation*, Available at: [http://archive.cpiml.org/liberation/year\\_2010/aug\\_10/document.html](http://archive.cpiml.org/liberation/year_2010/aug_10/document.html) (Accessed 12 February 2016)

*Gram Sabha* in a Scheduled Area and any person other than a member of aboriginal tribe is in possession of such land without any lawful authority then such land shall be restored to the tribal person to whom it originally belongs<sup>221</sup>. Moreover, the *Gram Sabha* and Panchayats were authorized to grant mining leases of specified minor minerals up to annual letting vale of Rs.ten lakhs; the State Excise Act was amended, empowering the *Gram Sabha* to regulate all aspects of excise including enforcement of prohibition if it so decided and comprehensive rules were made in 2000 in respect of 'consultation' with the *Gram Sabha* before starting proceedings of land acquisition<sup>222</sup>.

However, the actual implementation of the law in Sheopur District is extremely poor as the officials are not aware of the provisions of the law and the decisions taken by the *Gram Sabha* are often either coercive or without the consultation of the *Gram Sabha* altogether, as was noted during the field visit.

Poor implementation of PESA has also been documented in Betul district of Madhya Pradesh, where Burman (2010) noted a lack of knowledge about the PESA provisions among the officials. A stone quarry set up in Makda village reportedly did not obtain permission from either the *Gram Sabha* or the Panchayat, as has been mandated by the PESA provisions. Instead, individual deals were struck with the persons whose land was alienated. As a result of the setting up of the quarry, several people have developed health issues such as chronic asthma or chest diseases. Burman also pointed out that the *Gram Sabha* meetings were dysfunctional in practice, although statutory compliance is being made on paper<sup>223</sup>.

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<sup>221</sup>Sanjay Upadhyay, 'Tribals and their Land: Legal issues and Concerns with Special Reference to Andhra Pradesh and Madhya Pradesh', available at

[https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjk8NO10sLLAhVMI44KHZTmBT4QFggbMAA&url=http%20per%20cent3A%20per%20cent2Fper%20cent2Fsiteresources.worldbank.org%20per%20FINTINDIA%20per%20Resources%20per%20cent2Fsanjay\\_upadhyay-paper.doc&usg=AFQjCNF-8HgOkigld740bgZoy4WT3ZSwsg&sig2=JJrx73xn5sEQJGv9uzZKIA&bvm=bv.116636494,d.c2E](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjk8NO10sLLAhVMI44KHZTmBT4QFggbMAA&url=http%20per%20cent3A%20per%20cent2Fper%20cent2Fsiteresources.worldbank.org%20per%20FINTINDIA%20per%20Resources%20per%20cent2Fsanjay_upadhyay-paper.doc&usg=AFQjCNF-8HgOkigld740bgZoy4WT3ZSwsg&sig2=JJrx73xn5sEQJGv9uzZKIA&bvm=bv.116636494,d.c2E) (Accessed 31 December 2015)

<sup>222</sup> CR Bijoy (2012), 'Policy Brief on Panchayat Raj (Extension to Scheduled Areas) Act of 1996', UNDP, available at: <file:///D:/ces/TLA/mp%20lit%20review/UNDP-Policy-Brief-on-PESA.pdf> (Accessed 12 February 2016)

<sup>223</sup> J.J. Roy Burman (2010), 'Whither Tribal Autonomy in the Fifth Schedule Areas of Betul District (Madhya Pradesh)', *Mainstream*, April 10, Vol. XLVIII:16

## Conclusion:

The continuing gravity of the problem of tribal land alienation in Madhya Pradesh may be assessed by Census figures which reveal that the percentage of ST cultivators to total ST workers fell from 76.45 per cent in 1961 to 68.09 per cent in 1991. The loss of their land is far more likely to push the already disadvantaged tribal community into extreme poverty. At the same time the non-tribal people of upper caste have got hold over the resources of the tribals using their political as well as muscle power, the current situation in the region has forced them into extreme poverty as well as exploitation. The hostile attitude and approach of government officials and local leaders are further pushing them into darkness.

## **Chapter 6**

### **Andhra Pradesh**

## Introduction:

Andhra Pradesh is one of the biggest states in India ranking 4<sup>th</sup> in terms of size. It has a huge population of which the Scheduled Tribes account for 6.6% of the total population of the state. The state is divided into two regions viz., Coastal Andhra, and Rayalaseema, and has a total of 13 districts, with nine in Coastal Andhra and four in Rayalaseema. These 13 districts are further divided into 49 revenue divisions and they are further turn divided into 664 mandals.

The districts in the state Anantapur, Chittoor, East Godavari, Guntur, Kadapa, Krishna, Kurnool, Prakasam, Nellore, Srikakulam, Visakhapatnam, Vizianagaram and West Godavari.<sup>224</sup> In Andhra Pradesh, 33 types of Scheduled Tribes reside in 8 of these districts. The prominent tribes are Khonds, Kholamis, Nayakpods, Koyas, Kondadoras, Valmikis, Bhagats, Savaras, Jatayus, Godabas, Yanadis and Chenchus. The forest-clad mountainous tracts of the East Godavari and Visakhapatnam districts of Andhra Pradesh are the tribal areas of the State, with some twenty tribes speaking either Dravidian or Mundari dialects. As they are living in hilly areas and forests, they have led mostly an isolated life as a community with a distinctive culture and shyness of contact with other communities. Together, the population belonging to disadvantaged castes and minority communities accounts to about one-third of the state population. Also, Andhra Pradesh is a predominantly agricultural state, with more than three-fourths of its workforce engaged directly in agricultural sector

**Table.1. Population of Scheduled Tribes in the coastal districts of A.P.**

Name of the District	Total Population	ST Total	ST Male	ST Female	Percentage of STs to total Population	Percentage of STs in Rural Population
AP	76210007	5024104	2548295	2475809	6.59	92.49
Srikakulam	2537593	151249	75284	75965	5.96	98.35
Vizianagaram	2249254	214839	106079	108760	9.55	97.11
Visakhapatnam	3832336	557572	278399	279173	14.55	96.60

<sup>224</sup> [https://en.wikipedia.org/wiki/Andhra\\_Pradesh](https://en.wikipedia.org/wiki/Andhra_Pradesh) - cite note-70

From the above table it can be gathered that the proportion of ST population to the total population of Visakhapatnam is high (14.55 per cent) compared to the other two districts, Srikakulam (6.59 percent) and Vizianagaram (9.55percent) of the North Coastal region. The proportion of rural ST population is significantly higher than the state average of 92.49 per centin these three districts.

Socio-economically, the persisting problems like low literacy and high drop-outs rates, inadequate health services, lack of nutritious food, extreme poverty, and ineffective implementation of schemes etc. alienate the tribal communities from economic development. In the state, agricultural labor of STs is 10.3percent. Of a total of 115.31 lakh land holdings in the state, STs have only 7.5 per cent of the holdings. In the total land of Andhra Pradesh, STs have only 8.2 per cent of land the land which refelects a need for distribution of land for the tribal populations. In the total number of people employed in the state, STs represent 4.9percent. The literacy rate is 37 per cent and the work participation rate (WPR) is 53.9 per cent. Male work participation rate is 55.7 per cent and female work participation rate is 52%. According to the National Sample Survey Organization (NSSO) 61st round estimates in India, the monthly per capita expenditure of Scheduled. A small proportion of the tribal population is able to use the schemes of the government for their welfare. For a majority of this population, survival is dependent on traditional occupations like making of toys, baskets, mats, cosmetics and the collection of leaves, honey, shifting agriculture etc.

The tribal groups in the state are found living in approximately 5936 villages, situated in the Scheduled areas<sup>225</sup> in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahaboobnagar. The Scheduled area in the state constitutes 11 per cent of the total geographical area of the state. Presently, in Andhra Pradesh, the Fifth Scheduled Areas extend to an area of 31485.34 Sq. Kms. The breakup of this geographical area is depicted in the table below:

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<sup>225</sup> Ministry of Tribal Affairs. (n.d.). Retrieved March 31, 2016, from <http://tribal.nic.in/Content/DefinitionofScheduledAreasProfiles.aspx>

<b>S.No.</b>	<b>District</b>	<b>Scheduled Area</b>	<b>Villages</b>
1	Srikakulam	1289.32	108
2	Vizianagaram	1740.98	298
3	Vishakhapatnam	5904.51	3368
4	East Godavri	4191.65	559
5	West Godavri	1006.10	102
6	Khamman	6899.82	889
7	Warangal	3122.46	177
8	Adilabad	6138.50	412
9	Mahboobnagar	1191.90	33
	Total	31458.34	5936

In order to gauge the impact of land alienation in Andhra Pradesh, a sample district was chosen to collect primary data through quantitative and qualitative research tools. Through secondary research it was found that the block of Adilabad had visible cases of land alienation and due to its closeness to Hyderabad, it was envisaged that it would be easier to communicate with the local population due to their understanding of the language Hindi. In the following section, a profile of Adilabad block is depicted following which the extent of land alienation in the district has been discussed in detail. Quantitative data has been analyzed and represented through graphs and qualitative data collected from the sample villages in Adilabad has been discussed through village narratives, case studies and verbatim. The report then explores the possible processes of Land Alienation that were analyzed from the primary data compounded by a vast amount of secondary data. The processes have been explained with examples from the field with a focus on push and pull factors for land alienation amongst the tribal communities. The third section of the report lists the impact of land alienation on tribal well-being describes the status of the tribal community as observed by the researchers, along with the changes that alienation has brought to the present generation of the community. Finally, the last section outlines a historical sketch of land alienation in the state with a discussion of the present land laws operating in the state. The chapter ends with conclusive findings along with recommendations for the state.

## 1.1 Adilabad District Profile:

The district Adilabad derives its name from its town headquarter, which was named after the ruler of Bijapur, Ali Adil Shah. The district was earlier composed of smaller regions which were ruled by different dynasties during different historical periods. Adilabad district has been reigned over by famous and powerful dynasties over a long period of time which includes the Mauryas, Satavahanas, Vakatakas, Chalukyas of Badami, Rashtrakutas, Chalukyas of Kalyani, Mughals, Bhosle, Rajes of Nagpur and Asaf Jahis, besides the Gond Rajas of Sirpur and Chanda. Originally it was not a full-fledged district but was a sub-district named Sirpur-Tandur. However, in 1905 the status of this sub-district was promoted to that of an independent district with its headquarters at Adilabad.<sup>226</sup>

Being the second largest district in the Telangana region, the district has a population of 2079098, which accounts for 3.13 per cent of the total population of the State. It takes the fifth rank in terms of area, with an expanse of 16128 square kms accounting for 5.90 per cent of the total area of the State. The district comprises of 52 Mandals and 1743 villages, of which 1557 villages are inhabited and 186 villages are un-inhabited. There are 7 Municipalities in the district. The district has been conveniently divided into 5 divisions namely, Adilabad, Nirmal, Utnoor, Asifabad and Mancherial.

The composition of the tribal population of Adilabad district as estimated in the ITDA Report<sup>227</sup> is as follows:

<b>Names of Tribes</b>	<b>Population in Adilabad District</b>
Gonds	135976
Lambadas	77410
Kolams	30352
Koyas	12970
Pardans	11993

<sup>226</sup>History of Adilabad,Place of Interest of Adilabad,General Information of Adilabad,Phone Numbers of Adilabad,How to Get There of Adilabad,Location Map of Adilabad,Tourist Places of Adilabad,Handicrafts of Adilabad,Adilabad district. (n.d.). Retrieved March 31, 2016, from [http://www.ikingindia.com/ISS\\_Andhra Pradesh/Adilabad/Adilabad\\_home.html#](http://www.ikingindia.com/ISS_Andhra Pradesh/Adilabad/Adilabad_home.html#)

<sup>3</sup> PROFILES OF ADILABAD DISTRICT AND UTNOOR MANDAL. (2000). *Hybridoma*, 19(3), 278-278. Retrieved from [http://shodhganga.inflibnet.ac.in/bitstream/10603/25629/12/12\\_chapter4.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/25629/12/12_chapter4.pdf)

Adilabad was selected as a sample district to study the pattern of land alienation in Andhra Pradesh due to the following reasons:

- It has a considerable population of tribal communities, especially those under agency areas.
- The language barriers in Adilabad district were considerably low as the district has a lot of Hindi speaking people.
- Two villages were chosen in the district to study the status of land alienation and to assess the impact it has on the lives of the tribal communities. These villages are Malkapur and Vaijapur falling in the Guriatnoor block, where a high number of cases of land alienation had been revealed through secondary literature.
- The population of Malkapur is 477 people with the total number of households at 117. It is located in the rural interiors of the Guriatnoor block.
- The population of Vaijapur is 933 people with the total number of households at 225. The village was divided into hamlets and it is located near the town area of Guriatnoor and therefore is connected to the market with better transportation facilities etc.
- The objective of the selection of these two villages was comparative analysis of the impact of proximity of the village to urban areas on the status of land alienation amongst tribal communities in the villages.

## 2. Extent of Land Alienation:

The extent of land alienation was analysed with the use of mixed methodologies. For the quantitative section of the study, the land records of the villages were scrutinized, along with a Participatory Land Survey (PLS) as well as a household survey that was conducted in both the villages. While both the PLS data and the household survey data indicate a prevalence of land alienation amongst the tribal population, but a major setback faced during the analysis of land records was the absence of the mention of caste/tribe of the land owner in these records. As a result, the land records could not be analysed with reference to the tribal populations. While on the one hand, this drawback weakens the framework for the study in the state, but on the other hand, this absence of caste/tribe in the records is in itself is indicative of the poor management of the records.

However, a review of the literature shows that in Andhra Pradesh, the rate of alienation of tribal land is alarming. Non-tribal population presently holds as much as 48 per-cent of the land in Scheduled Areas of the state. Since the Andhra Pradesh Scheduled Areas

Land Transfer Regulation (APSALTR) came into effect in 1959, 72,001 cases of land alienation have been filed involving 3,21,685 acres of land in the state. The tribal people are losing the legal battle to recover their land. Of the 72,001 cases registered under the Regulation, 70,183 cases were disposed off and 33,319 cases (47.47 percent) were decided against the adivasis, involving 1,62,989 acres of land. As of January 2007, about 300 cases were pending in the Andhra Pradesh High Court involving about 2,500 acres of land under the Regulation.

Let us now look closely at the two villages where household surveys, participatory land surveys and an analysis of land records was taken up through a close-ended and structured questionnaire, along with qualitative interactions with key stakeholders so as to arrive at conclusive findings. The village is the site of research wherein one can analyse at the community level, the factors and consequences of land alienation on the tribal families living in these villages. A number of participatory research tools were applied to gather information in these villages such as Focussed Group Discussions (FGDs), transact walk and in-depth interviews with different stakeholders. The sharing of experiences by the various stakeholder groups in the community such as women, elderly, youth, teachers, field-level workers like Anganwadi workers, government officials like the pattwari, panchayat representatives etc. helped in building a village narrative on the aspects of land alienation.

### **Village 1: Malkapur**

*“Our forefathers have owned land since several years back, but they did not obtain any legal proof of the possession. As a result, today we face a problem of land alienation.”<sup>228</sup>*

These were the words of an elderly community member residing in the village of Malkapur, situated in the district of Adilabad in Telengana (AP), during a focussed group discussion with male adivasi agricultural labourers. The objective of the discussion was to get a general profile of the village with the background of the process of land alienation in the village and the extent of alienation. The following points came out through the discussion:

- *Land transactions between adivasis and non-adivasis in the village:* According to the group, land owned by the community members was small in size and due to this reason, the sale of land was low as there were no buyers for such small

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<sup>228</sup>Shekhar, Resident-Malkapur , 15/june/15

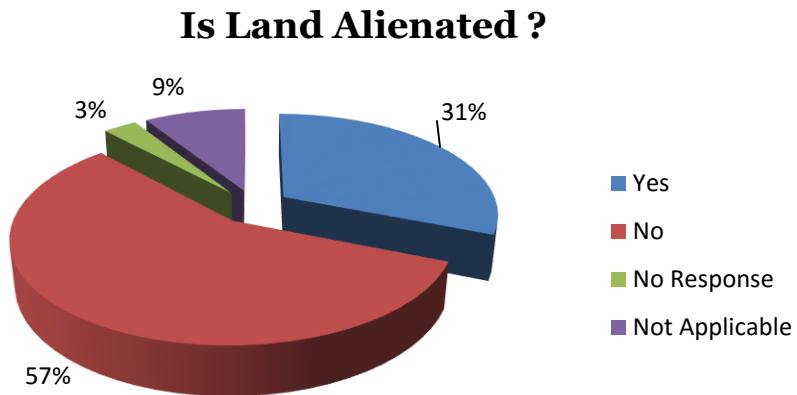
pieces of land. The community members were thus not involved in any form of transaction of land. However, if a community member wanted, he could buy land. Since a majority of the community members were farmers and lived on subsistence from the agricultural produce, there were very few of them who could afford to buy another piece of land. A farmer would generally buy extra land only if his original land was of no use. The community had a majority of adivasi population and therefore all land transactions took place within the adivasi community. However, when asked if the community members were aware of the legal policies of transaction between adivasis and non-adivasis, the group nodded in affirmation, stating that “for a non adivasi buying land from an adivasi, it can only be bought illegally as according to the policies a non-adivasi cannot buy land from an adivasi” They also shared that if a non adivasi wants to buy land then he has to bribe the administration officials as new pattas cannot be made easily.

- *Small size of land ownership:* Since the land could neither be sold nor could it be leased out, the farmers shared that they grew jowar on their land and used it for subsistence and if there was surplus they could sell the produce in the market and earn some money.
- The farmers shared that in 2014 there were floods and the area was completely submerged in water. At that time, the villagers had very little money which was used for the repair of their homes. They got no aid from the government and could barely manage to feed themselves. Currently, they state, life has become more stable for them.
- *Support from Administration:* When asked about what support they received from the administration, they stated that they only knew the name of the Sarpanch – Sushil Reddy. They informed the researcher that he owns 12 acres of land, a how much of which legally belongs to him is not known as his land has not been redistributed as part of the land ceiling policies

This discussion gives a picture of a remote village in which life has not been deeply affected by industrialization and therefore the incidence of tribal land alienation is not very visible. Traditional customs and culture are still adhered to in this village and the community members are also religiously inclined. It is also to be noted that due to the large dependence of the community on subsistence farming, less importance has been given to education as children usually drop out to help the family work on the field. The whole family, including the women and children, are engaged in the field

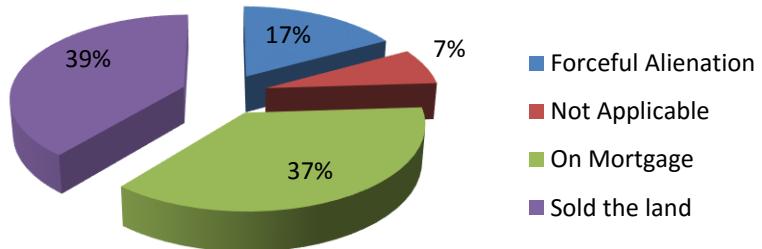
However, the quantitative findings reveal a different picture.

Out of 63 households, it was found that 31 per cent of households have faced land alienation and 9 per cent of households were landless. The breakup is depicted in the table below:



The survey reveals that 37 per cent of land under mortgage has been taken over. Due to the inability of the adivasis to pay the debt, this land has not been returned to the tribal family and therefore has ended up as being alienated from them. 39 per cent of the households shared that their land was sold to enable them to clear debts or for meeting an urgent need for money, even though they often do not get a good price for their land. 17 per cent of the households had faced forceful alienation by influential non-tribals from the village who acquired their land through muscle power and without paying adequate compensation for the land. Else, the land had been illegally acquired by bribing the government officials to made fake pattas for land which belonged to the tribal families.

## Process of Land Alienation



**Reasons for Alienation:** There were several reasons for land alienation as brought out by 20 house-holds in the survey. There were mixed responses for the reasons of sale or mortgage of land. The breakup of their responses is given below:

Reasons	Number of Individuals
Daily Expense	4
Agricultural Expense	2
Social Function	5
Health related	4
No response	1
Last rites of family members	1
Violence	3

In a majority of cases, the land was generally lost to persons residing in the same village, most of whom belonged to the dominant upper caste and influential families. This dominant community has good ties with the government officials . In two of households, the respondents did not know whom they had lost their land to. In cases where the land was lost to a tribal, it was mostly lost to the tribal group of 'Lambadas' who are not a native tribe of Andhra Pradesh.

Land lost to whom	Number of individuals
Bank	0
Broker	3
Non-tribal	6
Tribal	4
No response	5
Don't Know	2

An analysis of the PLS data shows that a large proportion of the land in the village is under tribal acquisition. More than half of the area has allegedly been acquired by tribal people belonging to the Lambada and the Gond communities. 21.3 per cent of land has been acquired by outsiders such as realtors and agents who buy the land at cheap rates for resale at a higher value to private companies or government during development projects. The data is depicted in the table below:

Land holding pattern	Area of land (Sq. km.)	Percentage
Tribal acquisition	352.5	56.4%
Outside buyer	133.3	21.3%
Non tribal acquisition	56.8	9.1%
Not found	13.7	2.2%
Not marked	68.7	11%
Total	625	

Overall, it was observed that out of the total area of land in Malkapur, i.e., 625 square kilometres, 9.1 per cent was acquired by non-tribals. The most pressing factor for alienation was revealed as acquisition of land by the 'Lambadas' tribal community. This factor has been discussed in detail in the next section.

## Village 2: Vaijapur

A key-informant interview was carried out with Mr. Sudhakar Reddy, secretary of the Vaijapur village. He

*"The Sarpanch here belongs to the upper caste and is more educated in comparison to others. Due to his increased awareness about the laws and rights, he has been chosen as the leader of the community."<sup>1</sup>*

informed the researchers that he owns 12 acres of land and most of it was used for agricultural purpose. He shared that the main tribes residing in the village are the Gond and the Kolam communities. He also pointed out that there was a visible difference between the status of both the communities. While the Gond community was seen to be more educated and were financially better off, in comparison, the Kolams were in very vulnerable condition due to their strict adherence to customs, subsistence living and no fixed source of livelihood. He remarked “Kolam tribals have the worst condition among tribals as they live in remote areas where there is no transportation and the roads are very bad. They have land but they do not have much information about it due to their isolation from the administrative bodies. Those who were landless had filed grievance applications at the Mandal Revenue Office and were given forest land for agricultural use. The *patta* has also been given to them.”

He stated that generally the adivasis were not very well off and have approximately 1-2 acres of land which was mainly used for subsistence farming. Over a period of time they have also started getting involved in the market and have initiated small businesses for their survival. Landless families usually worked as agricultural labourers and also undertook daily wage labour under the MGNREGA scheme.

He also shared that he did not have any information regarding land alienation in the village. He was not aware of any such cases in the village where land was sold or mortgaged. But he expressed that even though the villagers had very less land, it had helped them survive the most difficult times of their life and they became more settled. As a result, they were not keen on selling the land. Another factor why land alienation was presumed to be low was because the size of land holdings was very small. A third factor was the dependency on land for survival. According to the secretary, if the villagers sold their land then the source of livelihood will shift completely from land to daily wage and the burden will fall directly on the shoulders of the head of the family.

He also remarked on the harmonious relations between the tribal and the non-tribal and stated, that he has seen no such issues between them. “Everyone believes in peace and different communities come together and live in communal harmony, although it cannot be denied that tussles never existed as they were common 10 to 20 years ago. But modernization, mobile phones and televisions have impacted the belief systems of the community to a great extent.”

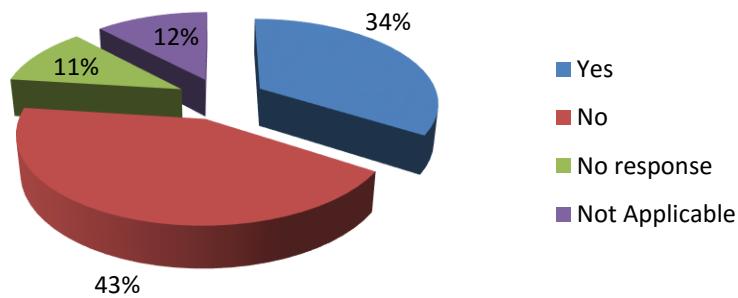
The Secretary gave a picture of a village where there were no issues of exploitation of the adivasis by the non-tribals and negligible cases of land grabbing, sale of land and duping

of adivasis to acquire land. However, a deeper investigation was required through further discussions with the tribal community and the operating community based organizations which would provide further information regarding the same.

Let us now look at the quantitative data in order to understand the findings at Vaijapur to a greater detail:

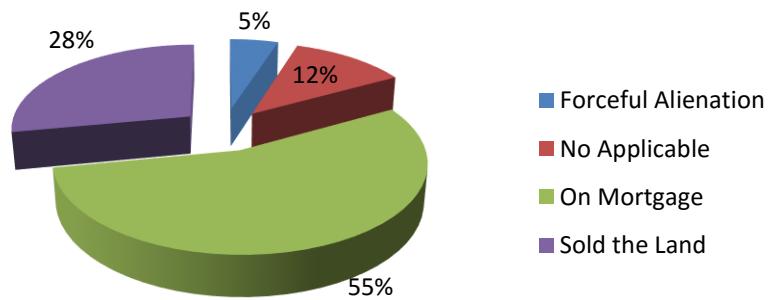
Out of 60 households, it was found that 34 per cent of households have faced land alienation and 12 per cent of households were landless. The breakup is depicted in the table below:

### Is land alienated?



The data shows that 55 per cent of land was mortgaged for various reasons and had not been returned to the tribal family as was due and this resulted in alienation. 28 per cent of the households shared that their land was sold on account of medical or other family emergencies whereas 5 per cent of the households had faced forceful alienation.

### Process of Land Alienation



**Reasons for Alienation:** Out of 21 households that had faced land alienation in the village, the highest incidence of alienation was due to medical expenses. This was due to the presence of private medical facilities in the nearby town area from where the community members would get treatment. It was leading to land alienation among the community members due to the increased need for money for urgent medical expenses. The breakup of the data for this and other reasons of alienation is given as below:

<b>Reasons</b>	<b>Number of Individuals</b>
Daily Expense	3
Agricultural Expense	2
Social Function	3
Health related	8
No response	1
Last rites	1
Violence	2

Land was generally lost to the broker or to the non-tribal realtors in the village, accounting for 13 out of 20 households. Since the village was located near the town, most of the land was being sold for commercial purposes and the realtors acquire land to build commercial and profitable establishments. The breakup of the data is given below:

<b>Land lost to whom</b>	<b>Number of individuals</b>
Bank	0
Broker	6
Non tribal	7
Tribal	4
No response	2
Don't Know	1

An analysis of the PLS data shows that maximum area of land in the village is under tribal acquisition. More than half of the area is said to be acquired by tribal groups belonging to the Lambada and Gond community. 46.2% of land is also under the acquisition of outside buyers such as realtors and agents who acquire land at cheaper

rates and resale the land to private giants or government during development projects. The data is depicted in the table below:

Land holding pattern	Area of land (sq.km)	Percentage
Tribal acquisition	339.8	22.1%
Outside buyer	710.8	46.2%
Non tribal acquisition	313.7	20.4%
Not found	79.9	5.2%
Not marked	93.8	6.1%
Total	1538	

Overall, it was observed that of the total area of land in Vaijapur, i.e. 1538 square kilometre, a large chunk accounting for 46.2 per cent of the land was acquired by outside buyers. The most pressing factor of alienation was the acquisition of land by realtors for commercialization or for development projects by private companies. These and a few other factors have been discussed in the following sections.

### Key Findings:

A summary of our findings from the two villages has been described in the table below, comparing the extent of land alienation in the two villages

Parameter	Village 1: Malkapur	Village 2: Vaijapur
Location	Remotely located in the interiors of Guriatnoor Block	Located near the headquarters of Guriatnoor Block, near the market
Extent of land alienation	31% of sample claim land alienation	34% of sample claim land alienation
Processes of land alienation	39% of sample have mortgaged their land followed by 37% of sample who have sold their land	55% of sample have mortgaged their land followed by 28% of sample who have sold their land
Land sold to whom	Non-tribal	Non- tribal and Broker
Reasons for sale of land	Medical expenses and daily expenses	Medical expenses
Most prominent Land holding group	56% of land still remains with adivasis followed by 21% of land held by outside buyers	46% of land has been occupied by outside buyers

It is clear from the comparison drawn above that the strategic location of Vaijapur which is nearer to the market and commercial headquarters of the block has influenced the extent of land alienation experienced by tribal communities in these villages. Although forceful land alienation has been reportedly low (5 per cent in both the villages) but land has been mostly kept on mortgage or sold for income generation of the tribal community. This clearly reinforces the relationship between land alienation and low socio-economic status of the tribal community. It also points towards the chain of poverty wherein land alienation may cause a further weakening of the socio-economic status for the future generations of the community.

### 3. Processes of land alienation and their impact

Qualitative interactions were held with officials from Indira Kranti Pratham (IKP), which is a legal assistance programme being implemented in agency areas<sup>229</sup> of East Godavari, West Godavari, Khammam, Warangal and Adilabad districts. The objective of IKP is to impart legal literacy among adivasis in order to build their legal capacity. Other interventions towards legal empowerment include plugging the loopholes in the protective laws and strengthening the judicial machinery for a pro-tribal approach. Their vision is that once trained, the tribal would be able to assist the gram sabha<sup>230</sup> for furthering the interests of empowering the tribal in taking action on proposed legislations.

During the interaction, the following issues regarding land alienation emerged:

- Most adivasis are aware of the fact that non-tribals cannot own land in Scheduled areas and if they own a land in Scheduled areas, they should have a legal proof of the same. However, the adivasis don't take action against non-tribals who are observed to be illegally amassing land in the Scheduled areas. This is due to a lack of confidence rooted in their lack of legal education.
- Non-tribals mostly belonging to Scheduled Caste and backward classes communities are cultivating land in the region even though they do not possess *pattas*<sup>231</sup>.

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<sup>229</sup> Ministry of Tribal Affairs. (n.d.). Retrieved March 31, 2016, from <http://tribal.nic.in/Content/ScheduledAreasinAndhraPradeshSSAreas.aspx>

<sup>230</sup>A gram panchayat is the cornerstone of a local self-government organisation in India of the Panchayati raj system at the village or small town level, and has a Sarpanch as its elected head.

<sup>231</sup>A *Patta* is a legal document issued by the Government in the name of the actual owner of a particular plot of land. It can also be issued for lands having buildings or individual houses etc. constructed on them.

- There are certain tribal people who are cultivating on government lands. These adivasis need protection from laws on trespassing and require to be given *pattas* on a priority basis since they have no other source of livelihood. Similarly, adivasis cultivating forest land require the same protection.
- In several cases pending in government offices or Court, no stay orders were issued on the appeals of the adivasis. Stay orders of lower courts were not implemented on the plea either. Also, most cases that were pending in the courts were decided in favour of the non-tribals.

Through field interactions in the two villages and analysis of the information provided by the respondents, it was possible to ascertain factors responsible for land alienation in the Adilabad district. The factors that emerged are outlined as follows:

### **3.1 Weak tribal social structure**

The qualitative interactions revealed that the structure of tribal society rests on the foundation of tribal religion and culture. However, the structure seemed to lack a sense of solidarity to create a platform of advancement of tribal rights. Most of the tribal members of the community were inactive in the local administration and had no inclination towards gathering community support for the cause of the tribal welfare. They shared that in early times they had a feeling of togetherness which has diminished and has been the root cause of their exploitation or extinction.

As observed by a community member in Vaijapur village, “We are so deeply engaged in trying to make ends meet every day, we are barely left with time or energy to be able to understand and participate in the administrative processes. If we see that a family has been duped into selling their land by a broker, we become alert about not trusting that broker again. However, we do not extend help to the family in order to fight or overcome the felony.”<sup>232</sup>

### **3.2 Loopholes in Land Laws**

There are many dubious ways of land-alienation that are applied by the Non tribal as they play with the land laws. The loopholes are mainly the laws that have been framed in

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But for these types of properties, it can be shown that the property is being continuously occupied which is not possible for any barren tract of land.

<sup>232</sup>Sukumar, Resident – Vaijapur, 21/june/15

a flawed way that does not make the anti-alienation aspect to be full proof. This has largely affected the tribal economy into becoming weak and increased their problems. One of the most prevalent way is to form an alliance or allegiance tribal families. Even though it was observed less in the villages we studied, however, we did hear case of Non tribal being married to a tribal and becoming heir to their land in return. One such case was observed in of the village in the Guriatnoor block where a Non-tribal had married a tribal's daughter which had lead to his inclusion in the family inheritance. Later, he acquired the share of land which belonged to his wife and started and sold it for money.

### **3.3 Influx of non-tribals into tribal areas due to development of roads and transport**

Kolams and Gonds are probably the oldest population and aborigines of the regions. But a major change in the composition of tribal people has recently been seen especially with the development of roads and transport. Populations from other tribes have flooded into the district both from the south and north and have occupied their land. This is due to the fact that the region has become easily accessible due to road and transport development. The villages of this district became attractive sites to experienced cultivators of surrounding states like Maharashtra and also to resident non-cultivators belonging to other castes/religion living in Adilabad, Asifabad and Nirmal towns. During 1970 and 1980 there was a lot of discontent in the minds of tribal people, particularly in the minds of Gonds on the ground that the non-tribals from outside settled in their tribal villages, forcing them into a position of dependency. Thus, those who had cleared off the forests for establishing their homes and using it for cultivation purposes were no longer the owners of their land, and instead, the newly entered communities forcefully took them over. This process and its consequences have lead to the loss of land and thousands of adivasis have become landless agricultural labourers in Scheduled districts.

Partly as a result of the influx of non-tribals, the population composition of Andhra Pradesh changed drastically from the 1970s onwards. The once predominantly tribal areas have become tribal minority areas. For instance, Utnoor Agency in Adilabad district and Polavaram Agency in West Godavari District are regions where this phenomenon can be seen.

This influx as well as development of communication, roads and transport has also affected the tribal culture and traditions and lead to a loss of their identity. In an interview with a community member in Malkapur village the following thoughts were shared:

“The problem of non-tribal infiltration has two impacts. The first is individual and the second societal. The technology, internet, bikes, mobile phones have made life more materialistic and individualistic, it cannot be denied that it has made life a little easier but it was not needed. It was a forceful development which we did not ask for. It has taken away our culture and tradition. We have lost our customs as it has been influenced by those of the non-tribal or other tribal population”<sup>233</sup>

### **3.4 Inclusion of Banjaras (Lambadas) in the Scheduled Tribes list**

In Adilabad district, the Banjaras are among the most recent immigrants. They are native to North India and in physical characteristics, language, and traditions they are similar to the population of Rajasthan. Originally, they were engaged both in cattle breeding and in the transport of goods on bullocks. They derive the meaning of the name of their tribe Banjara – meaning “nomads”, from their traditional occupation. However, after a long period of movement and unsettled lifestyle, many of them took to farming with an emphasis on raising live-stock. In this district, the settlement of Banjaras started in the 1940s. They succeeded in displacing the indigenous tribal (Gonds) from several hundred acres of land. By the year 1976, numerous old Gond villages had been taken over by Banjaras and the acquisition of Gond land by new Banjara settlers progressed at a steady pace. Thus, when special revenue officers probed into cases of alienation of tribal land it was found that many of them involved the illegal acquisition of Gond land by Banjaras.<sup>234</sup>

In 1977 a decision by the government of Andhra Pradesh removed one of the most important safeguards against the transfer of tribal land to the now settlers.<sup>235</sup> In that year the Banjaras also known as Lambadas were also given all the privileges enjoyed only by the aboriginal tribes of Andhra Pradesh. This was a political move in order to amass greater number of votes from the migrant community which was growing greater in number and in power day by day. It must be pointed out that in the neighbouring state of Maharashtra, the Banjaras do not have the status of a Scheduled Tribe. After the notification of the Banjaras as a Scheduled Tribe, the land transfer regulation could no longer be applied to such cases, and therefore, the land lost to the Banjaras could not be returned.

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<sup>233</sup>Ghasiram, Resident- Malkapur, 1 July 2015.

<sup>234</sup> Indian Mirrors. (n.d.). Retrieved from <http://www.indianmirror.com/tribes/banjaratribes.html>

<sup>235</sup> Banjara. (n.d.). *Encyclopédie De L'Islam*. Retrieved from <http://nunsavath-madhubabu.blogspot.in/2011/01/banjara-lambadi.html>

These facts were collected through a quantitative data collection process as well as through a secondary literature review. We attempted to triangulate this data through conversations with locals. During one such encounter with a government official, he stated:

“The Lambada adivasi are progressive and now most of them are even educated. The Gonds are not as educated and most of their children are drop outs. Due to this reason, they only engage in odd jobs or agriculture for their livelihood. If we take the case of Malkapur village, out of 63 households, 25 households of the poorest households belong to the Gonds. Rest of the households belonging to the Lambadas are thriving as compared to them.”<sup>236</sup>

On the other hand a poor tribal farmer from Vaijapur said, “The Banjara community have made political pressure and are more exposed and smart and educated, so they have through pressure included themselves into Tribal community and started enjoying the tribal status and its benefits. Now a lot of land has been bought and acquired by them in the past but it cannot be contested as they are themselves now under tribal status. The government and its leaders have always betrayed us.”

### 3.5 Debt

Agriculture is the main source of livelihood for the tribal population of Adilabad district and the technique of cultivation differs from one tribal group to other. The Kolams follow the "Podu" or slash-and-burn form of cultivation; while the Gonds practice the relatively more settled plough cultivation technique with crop rotation and the practice of leaving land fallow in between periods of cultivation. Jowar is the staple diet of the tribal population of the district. Other food crops such as sorghum, millets and pulses as well as non-food crops such as cotton are also grown in this region. Paddy and Maize are grown in irrigated areas to cater to the demands of the market economy. However, in order to increase and sustain agricultural produce, the agricultural inputs require financial investment. The non-tribal employed usurious money lending as an effective tool for grabbing the tribal lands and got trapped in a cycle of perpetual borrowing and repayment. When the tribal were unable to pay back their debt, the non-tribals would suggest mortgaging their land until the debt was paid back. However, due to low income and lower agricultural returns, the tribal family would not be able to return it and the land would be lost as a result. We picked up this information through the quantitative

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<sup>236</sup> Anonymous, Patwari – Guriatnoor Gram Panchayat, 11/june/15

data from Vaijapur and triangulated the data through qualitative interactions on the field. As highlighted in the quantitative data, we found that most of the debts occurred on account of urgent medical expenses. At the hour of need, it was the non-tribal money lenders who took the opportunity to lure the adivasis into mortgaging their land. One such case is discussed below:

#### **Case Study from Village Malkapur**

Nagraj, 45 years (name changed) belongs to Malkapur village of Adilabad district and possessed 24 acres of land. He observed that the non – tribal community in their village had received a patta but the tribal community, including himself, had not received it. Seven years ago, due to an accident, his son had broken his leg and for his treatment, he was taken to the city hospital. Since Nagraj had no patta, he could not get a loan from the bank unlike others who would obtain loans by showing their current use of the land. He contacted a broker, who agreed to loan him money by keeping his land on mortgage. Nagraj had no other options of getting cash and therefore, he readily agreed. Nagraj has still not been able to restore his land to date. His debt has further increased with the growth in rate of interest.

#### **3.6 Declaring forests as Reserved Forest Area**

Prior to the declaration of the forests as Reserved Area, the adivasis were asked to clear the forest and were allowed to cultivate those lands till they became fertile. But once they became fertile, the creators of those lands were asked to go deep in to the forest and settle there. The changing of laws governing forests has also contributed to large-scale land alienation in the Scheduled Areas. The concept of state ownership of forests came into conflict with the traditional rights and practices of adivasis. In several locations, adivasis lost access to their agricultural land following the demarcation of forest boundaries. In northern coastal districts of AP, in particular, adivasis have lost large chunks of land that they had used for cultivation. Approximately 65 per cent of Andhra Pradesh forest area is spread over eight tribal districts in the northern part of the state. The state has appropriated large tracts of land without recognising customary rights, particularly of shifting cultivation. Much of the land classified as “encroached land” in AP is actually land under customary tribal forest area. A high school teacher in Vaijapur village gave the following information regarding the status of reservation of forests in the district of Adilabad: <sup>237</sup>

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<sup>237</sup>Sukhi Ram, Teacher – Vaijapur Middle School, 29/june/15

“Until the 20<sup>th</sup> Century, the tribal of Adilabad had not been subject to any restrictions in the forest. Gonds and Kolams practised shifting cultivation on the area cleared by them from the forest area earlier. However the forest lines were demarcated in a discriminatory manner as it did not take into account the source of rightful ownership of land by the tribal. Their cultivated lands were included under reserve forest land. Some villages too, were put in enclosures and the forest boundary ran so close to the villages that there was hardly any space left for future growth. Many stretches of agricultural land held by the tribal on patta were also included in the reserved forest resulting in conflicts between tribal and forest officials over such “encroachments”.

### **3.7 Ethnographic factors – Tribal Religion and Culture**

Primitive tribal groups have different ethnic traditions, ritual activities, celebration of different festivals and traditional ceremonies. However, the strong adherence to traditional customs has had a negative impact on the tribal community in the long run. The primitive life-style has made them fall behind and so has their over-indulgence in carrying out their traditional customs and following their age-old belief system. The economically advanced, rational thinking and politically powerful groups belonging to the non-tribal community took advantage of this life-style. In this context, Bhagwan, a local non-tribal from Vaijapur village shared the following observations on how it led to land alienation among adivasis:

“Tribal people bury their dead instead of burning them. Adivasis still follow animism as their main form of religion even if they call themselves Hindu. They perform primitive rituals and festivals as their forefathers did as nothing has changed much from their perspective. They are strongly attached to these customs of worshipping nature and following their cult God. The tribal encourage their children to follow the same rituals too. Also, if one asks them about the mythological history behind Diwali and Dussehra they would not be able to state properly. They celebrate this festival because it has been celebrated in their village since ages as part of the Sanskritization process. However, they can state the reason why they celebrate Ghusadi (Traditional Festival) as it is a festival they celebrate most strongly as part of their tribal religion. To celebrate these festivals the tribal need to invest money, they borrow money and get into debts which further leads to alienation of their land.”

### **3.8 Economic factors – Agriculture and Markets**

Due to alienation of land, the adivasis who had cleared the land and made it arable became alien to their own land. As the size of remaining land holdings in the case of Scheduled tribe peasants is very low compared to the non-tribal community, there is hardly any surplus produced from the land that could help them earn a livelihood. Women pursue some occupations like collecting Mahua flowers for brewing liquor and selling it to local villagers; and also other minor forest products like tamarind, tubers, gum, betel, firewood. In addition to this, the housewives also collect Beedi leaves, which help them and their family have an extra source of income which can be used for household purposes or for their personal use. As told by a group of women from Malkapur village during an FGD:

“We do not possess any capital for investing on the lands for irrigation or other agricultural purpose; hence the yield on our lands is also very low. We also do not have any source of credit from our relatives as they are also equally poor. We suffer from acute poverty especially during off-seasons.”

### **3.9 Alcoholism**

The Scheduled tribes have an age-old culture wherein drinking occupies the position next only to food. Drink is the main cause of concern for the tribal community. These communities continue to consume liquor on a daily basis. Homemade liquor made from Mahua fruit is brewed and both male and female members of the community indulge in it. One of the male members from the focussed group discussion at Malkapur village had made the following remarks:

“The men earn to satisfy their daily routine of alcohol consumption. They also spend lavishly during marriages and death ceremonies on liquor which serves as the traditional and communal drink on such occasions. Liquor occupies such an important position in tribal culture that it is very difficult to uproot it. It would only be possible through generations of education and awareness.”

### **3.10 Psychological factors**

Due to their age-old suppression, the Scheduled Tribes are forced to believe that they are socially degraded and they feel shy. They are also fearful of officials and educated persons. These are reasons they avoid confrontation with non-tribals even when they have deprived them of their rights on the land owned by them. Under these

circumstances they also do not have any motivations to improve their economic status. During a focus group discussion with tribal youth from Malkapur, a boy stated:

“We are different from non-tribals in all perspectives and are also low in status. ‘Their forefathers used to wear good clothes and eat cooked and good food and on the other hand our forefathers used to wear no clothes and had no sense of how to eat. Nowadays we are only trying to copy ‘them’ as it will make us more civilized and we will get respect.”<sup>238</sup>

Another girl from the same group stated: “Apart from being poor and a woman, what is degrading is being a tribal.”<sup>239</sup>

### 3.11 Isolation, illiteracy and ignorance

Isolation, Illiteracy, and Ignorance have caused the Scheduled Tribes to remain at the lowest possible socio-economic position. Their settlements which are situated at great distances from the developed towns make them isolated. Due to their illiteracy and ignorance, all the protective legislations made to protect the tribal people from the exploitation of money lenders and land-lords are not clearly known to them and they are not acquainted with rule of law.

#### Summary

Through our field interactions and secondary research, the following points have been outlined as the causal factors or processes of land alienation which were observed, reported and highlighted during the research:

- Inclusion of Banjaras in Scheduled Tribes
- Debt
- Declaring Forests and Reserved forests
- Ethnographic factors
- Economic factors
- Alcoholism
- Psychological factors
- Isolation, Illiteracy and Ignorance

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<sup>238</sup>Kancha, Resident – Malkapur, 17/june/15

<sup>239</sup>Soma, Resident – Malkapur, 17/june/15

### 3.12 Impact of Tribal Land alienation on tribal wellbeing

Sale of agricultural land has caused a situation of extreme poverty and land alienation for the native tribal people of Andhra Pradesh. There are two major players on the demand side of this transaction -the government and the real estate business community. Land from the farmers is bought by the local brokers who mostly belong to the Non-tribal community and are then sold to the realtor at attractive prices. The realtors play the role as an usurper of land and resources in most cases in Andhra Pradesh. They enter the market much before the real development activity starts, the price offered to the farmers by the broker is often a fraction of the market price or its potential future value. While a large number of farmers sell their lands at very low prices, some, especially the poor, lose their meagre lands through forced means like mortgage, violence and political influence. The realtors buy the land from the brokers in the guise of agriculture purpose, which means low registration charges. After converting the land to plots they transfer them to individuals who would bear the heavy registration charges. In the process, brokers and realtors make more money than the real owners of the land. While the rich farmers are able to protect themselves from this onslaught due to their awareness and resource strength, the poor and weaker sections are losing out and in the absence of proper pattas and legal awareness some of them were deprived of their lands without getting any benefits. They are not even in a position to get a foothold in the urban job market due to a lack of education and skills.

Further, in our qualitative discussions in both the villages, the following points regarding the condition of health and education came out:

- *Education facilities:* When asked about Education facilities in the village, the participants informed that they send their children to government school. The farmers shared that they wanted their children to study further but knew that they would eventually drop out since there was no money in the house and the children would prefer working to be extra hands of income to the family. They stated “at the end of the day, education doesn’t pay for our bread”
- *Impact of Modernization:* They stated “earlier our forefathers used to live nude but now we wear modern clothes”. According to them, the change has been positive as due to development of road and transportation service, their life has become easier. The farmers also stated that even though they liked the positive changes of modernization but they did not want factories to be set up. Even though they are aware that setting up of industries will bring jobs to the

community members but it will also damage the environment and they did not want their natural resources to be impacted due to the ill effects of pollution which would cause danger to their crops.

- *Religious Institutions:* They shared that no religious missionaries have visited this village. They stated that they believe strongly in their religious customs, and therefore hardly any tribal community member has been converted. They are ardent followers of Hindu Gods and Goddesses. The adivasis worship Hanuman god and Bhim and Jangubai Nagoba who is the adivasi god.
- *Water Facilities:* When asked about the water facilities available in the village, the participants informed that for 70 households in the village there were two government hand pumps. Every morning, there is a long line of community members who would come to fetch water from these hand pumps. Also, no irrigation facilities have been provided from the government. There was no farmer in the village who owned irrigation facilities of his own. It is rain fed farming.
- *Health Facilities:* When asked about the presence of health facilities and service providers, the participants reported that there were no hospitals or even a government clinic at the village. If anybody fell ill, then he had to travel to Adilabad for any medical emergency and even for pregnant women due for delivery.
- *Status of Women:* When asked about the status of women in the village, the participants informed that the women of the village usually work on the fields. Girls get married at 18 years of age. The community members know the legal age of marriage of the girls and boys. They know about it through newspaper and television. This has been a positive change with the advent of modernization brought about.
- *Communion between Adivasi and Non-adivasi:* They also shared about their village customs. According to them, marriage can take place only between adivasis. Marital union between tribal and non-tribal is not allowed. Inter-village marriage is allowed. If tribal and non-tribal marry then the family is excommunicated from the village. This is a old tradition and the community members follow it strictly.
- *Condition of Forests:* The participants also shared about the condition of the forests which had been the source of all life to them. According to them, the forest

is not used for any hunting or gathering now as it is illegal and even though their forefathers used to go there, from the 1980s-90s it has stopped, after adivasis started getting arrested. However, they use the forest to get fuel wood for household purposes.

## 4. Tribal Land Alienation in Wider Context

### 4.1 History of land administration in Andhra Pradesh:

Historically, land administration has been considered as the prime responsibility of the State. According to traditional doctrines, all lands belong to the King or the State.<sup>240</sup> However, in India the process of Revenue Administration was started by Sher Shah Suri<sup>241</sup> to bring the concept of “permanent settlement” wherein the land was permanently assigned to belong to the tiller on the condition that a certain percentage of produce of land is given to the State. Upon the advent of British in India, they superimposed their similar systems over the existing pattern. However, after Independence, the same structure was adopted but with changes in lieu with the Welfare policies of the Government of India. These changes were designed to facilitate the process of permanent settlement further and bring equitable distribution of land and resources to the people of the country. These reforms in the land administration mostly included the following:

1. Abolition of intermediaries
2. Tenancy reforms
3. Fixing ceiling on land holdings
4. Assignment of Government lands and Ceiling Surplus lands

Over 54 million acres of Ceiling Surplus land was distributed to 57 million beneficiaries<sup>242</sup> and these mostly included the community belonging to backward classes, castes and tribes. However, in the years that followed some, the objective of equitable land distribution was not meeting its desired results. There was increased slackness in the continuity of the policy of land distribution, the loopholes in the land were being misused to defy this policy and moreover, the most vulnerable group in the stratified Indian society - the S

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<sup>240</sup>V. Sebastian, Adivasis – An Anthropological Gaze

<sup>241</sup>Sher Shah Suri (1486 – 22 May 1545) was the founder of the Sur Empire in North India, with its capital at Delhi.

<sup>242</sup>L. Lakshman Rao; Priya Deshingkar; John Farrington, Tribal Land Alienation in Andhra Pradesh: Processes, Impacts and Policy Concerns

Scheduled Tribes<sup>243</sup> were being exploited. These tribes, who mostly occupied forests in India for centuries were being illegally removed from their ancestral settlements close to nature. Not only were they not getting increased access to land but also losing control over their land resulting in a condition of alienation. This land is not only their source of livelihood but also their culture, lifestyle and religion. Thus, the alienation is not merely of their land but also their identity. After 67 years of Independence, their struggle continues to achieve the dream of '*revisiting the land they once owned*'. This chapter looks into the deeper factors that have caused the current status of land alienation with a special emphasis on the tribal in the region of Andhra Pradesh and Telangana.

As early as 1879, the Bombay Province Land Revenue Code also prohibited transfer of land from a tribal to a non-tribal without the permission of the district collector. The Mysore Land Revenue (Amendment) Rules, 1960 were suitably amended and the Karnataka SCs and STs (Prohibition of Certain Lands) Act, 1978 imposed restriction on alienation of lands allotted to SCs and STs without the permission of the government. The Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949 and the Bihar Scheduled Areas Regulations, 1969 also prohibit the alienation of land of the adivasis. These regulations also provide for restoration of alienated land to the adivasis or when converted for urban use, to give them equivalent lands. The Rajasthan Tenancy Act, 1955 as amended in 1956 prohibits such transfer of lands. In Madhya Pradesh, the MPLP Code, 1959 under Section 165(6) and 168(1) prohibits alienation of land and remedy of restoration is provided. In Tripura, the Tripura Land Revenue and Land Reforms Act, 1960 imposes similar restrictions. In Assam, the Assam Land and Revenue Regulation Act, 1964 was enacted. In Himachal Pradesh, the HP Transfer of Land (Regulation) Act, 1968 was made. In Manipur, the Manipur Land Reforms and Land Revenue Act, 1970 was made. The abovementioned acts are the direct result of constitutional obligations. The Constitution demands that legislative or executive measures for the reconstruction of the unequal social order by corrective and distributive justice through the rule of law. The fundamental rights and the directive principles are the means to achieve the above object of democratic socialism.

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<sup>243</sup>The Scheduled Castes (SCs) and Scheduled Tribes (STs) are official designations given to various groups of historically disadvantaged people in India. The terms are recognised in the Constitution of India and the various groups are designated in one or other of the categories

#### 4.2 Present Status of Land Laws in Andhra Pradesh:

The most important Act in order to protect the land of the tribal, the 'Agency Tracts Interest and Land Transfer Act 1917' was passed. The main objective of this Act was to control the rate of interest and to check transfer of land from tribal to non-tribal. In the state of Andhra Pradesh, a similar regulation was passed. This was the 'A.P. Scheduled Area Land Transfer Regulation' passed in 1959. It was an exclusive regulation which deals with prohibition of land alienation in Scheduled area. However, in spite of good safeguards provided in the Regulation the influential land lords managed to cultivate the lands belonging to tribal by misusing certain loopholes in the regulation. In order to mitigate this condition, the regulation was amended with more stringent provisions. However, it was hampered by the frequent filing of writ petitions in the court by the effected non-tribal and usually resulted in decisions biased against the tribal.

The 'Land Ceiling Act' was another law designed to restrict the possession of large tracts of land by non-tribal by provisions of caps to the maximum area of land holding. Big farmers had to transfer their lands to poorer farmers in order to redistribute the surplus land equitably. These land transfers were called 38E lands, where the landlord held a right of 40 per cent and the cultivator 60 per cent. The cultivator would obtain 60 per cent rights only after continuous cultivation for 16 years. These lands where the cultivator had been cultivating since three generations were entered as assigned lands in the basic documents. However, later it was found that, nine lakh acres out of the total 55 lakh acres of assigned lands were registered under false names. The state governor had promulgated an ordinance on November 5, 2006 to amend the AP Assigned Lands (Prohibition of Transfers) Act 1977, providing for the resumption of illegally-occupied assigned lands. Thus, the land was never distributed among the tribal families who remained poor.

Over the years, landlessness has actually increased among the Scheduled tribes and the extent of land alienation thereby increased. Koneru Ranga Rao Report<sup>244</sup>estimated that 10 per cent of rural households are landless and 36 per cent own less than half an acre. In terms of operational holdings, 38 per cent are of size less than 1 $\frac{1}{4}$  acre (half a hectare) of land.

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<sup>244</sup> Land reforms in Andhra Pradesh. (2007). Retrieved March 31, 2016, from <http://www.thehindu.com/todays-paper/tp-opinion/land-reforms-in-andhra-pradesh/article1910459.ece>

#### **4.3 Tribal Movements:**

Those farmers from the tribal community who attempt to contest the illegal transactions of land usually face resistance from a strong nexus that exists between revenue officials, politicians and realtors. This group is responsible for fudging land records and further putting the blame on the tribal farmers. There have been cases where the Mandal Revenue Office (MRO) unnecessarily gives the concerned farmers memos; where secretaries, influenced by village elites and politicians do not write the record properly; the village assistants manipulate the land records in favour of the elite etc. As a result of these and many other problems faced with the government officials, the poor farmers are paying a heavy price. The community people who take up the cause to fight for land rights often fizzle out as they are bribed heavily by the realtors.

The agitation for land taken up by the CPI(M) and CPI in this state, which attracted nationwide attention was a movement against this very nexus. Return of land to the poor tribal has also been an integral part of Naxalite activity although it was ignored or derided as antisocial lawlessness. In the talks, the Naxalites insisted on appointment of a land commission consisting of not merely government representatives or retired judges but also the people from the community.

On the other hand, positive discrimination programmes have great potential to empower the STs. But Andhra Pradesh tribal are not homogeneous; upwardly mobile sections have already emerged. Some groups, notably the non-indigenous Lambadas or Banjaras, have been able to capture most of the reservation benefits often at the expense of poorer and indigenous tribes like Gonds and Kolams. Policy and interventions need to take a more disaggregated view of tribal communities.

#### **5. Conclusion and Recommendations:**

The overall situation prevailing in AP today is one where the alienated land cannot be restored because of legal loopholes, lack of retrospective land regulations, powerful outsiders and a continuing lack of political commitment towards protecting tribal rights. Many non-tribals manage to hold on to their land by obtaining stay orders or by producing false documents. Development projects are emerging as newer sources of land alienation. In this context, tribal areas are used to attract private capital for exploiting mineral resources and adivasis are being forced to give away their lands. The government's resettlement and rehabilitation programmes are also not formulated in a holistic way for the upkeep and upliftment of the adivasis from the vulnerability created

by loss of land. Tribal development strategies need to respect customary rights and tribal values and also invest in the harnessing of human capital – education and health in particular. Employment guarantee and food security are emerging as critical factors. In this context, the following recommendations pertaining to the state of Andhra Pradesh can be taken up:

- Higher level of legal knowledge amongst adivasis through awareness generation
- National or state-level commission should be set up specifically to monitor adherence to anti- land alienation laws
- Formulation of stricter laws at the state level
- Advocacy of education and comprehensive assessment of SSA and RMSA in the state of Andhra Pradesh.

## **Chapter 7**

## **Jharkhand**

## Introduction

Jharkhand is one of the newer states in India that was created in the year 2000 following a 200-years long<sup>245</sup> history of demand for a separate state for the Adivasis. Carved out of 'south' Bihar, the history and formation of Jharkhand as a state evokes a strong image of tribal mobilization and their demand for a separate state and autonomy in the management of tribal land. Historically, land has been closely associated with the political struggle in Jharkhand, as have been seen in several seventeenth, eighteenth and nineteenth century peasant struggles<sup>246</sup> such as the Santhal hul<sup>247</sup> and the Munda ulgulan<sup>248</sup>.

According to the 2011 census, Jharkhand has a tribal population of 8,645,042, comprising 26.2 percent of the total population of the state<sup>249</sup>. Although this is a minor decrease of 0.1 percent since the 2001 census, but as Maharatna and Chikte (2004) note, Jharkhand's tribal population has, since post-independence experienced a slower population growth than the non-tribal groups<sup>250</sup>. Much of this can be attributed to the diminishing demand for tribal labor outside of Jharkhand leading to a further disruption of their livelihoods, inaccessibility to modern amenities, health and education<sup>251</sup>. Another argument suggests that tribal population is getting redistributed across geographic territories, such as in the case of Birhors in Jharkhand, as a result of the dismantling of their traditional economic activities<sup>252</sup>.

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<sup>245</sup> Louis, P. (2000). Jharkhand: Marginalization of Tribals. *Economic and Political Weekly*, 1487-91.

<sup>246</sup> D., & G. (1989). Some Agrarian Questions in the Jharkhand Movement. *Economic and Political Weekly*, 1505-1506.

<sup>247</sup>Sathal hul was a native rebellion by the Santhals against the British colonialism and the local zamindars in the years 1855-56. The rebellion was subdued by the British authority with the help of military aid. Details available at [https://web.archive.org/web/20111026053131/http://www.historytution.com/early-resistance-british\\_rule/santhal\\_rebellion\\_percent281855-1856percent29.html](https://web.archive.org/web/20111026053131/http://www.historytution.com/early-resistance-british_rule/santhal_rebellion_percent281855-1856percent29.html) (Accessed 2<sup>nd</sup> February 2016)

<sup>248</sup>Munda ulgulan was a revolt in the present-day Jharkhand state led by Birsa Munda in the year 1897 against the British colonial powers as well as the local zamindars and moneylenders. Details available at <http://www.tribalzone.net/people/birsamunda.htm> (Accessed 2nd February 2016)

<sup>249</sup>Census of India 2011, Ministry of Home Affairs, Government of India. Further details available here: <http://censusindia.gov.in/> (Accessed 14 February 2016)

<sup>250</sup> D., & G. (1989). Some Agrarian Questions in the Jharkhand Movement. *Economic and Political Weekly*, 1505-1506.

<sup>251</sup>Ibid

<sup>252</sup> Firdos, S. (2005). Forest Degradation, Changing Workforce Structure and Population Redistribution: The Case of Birhors in Jharkhand. *Economic and Political Weekly*, 773-778.

Jharkhand has 32 tribal groups<sup>253</sup>, of which eight such groups have been categorized as Particularly Vulnerable Tribal Groups (PVTGs)<sup>254</sup> and the number of PVTGs in Jharkhand in 2001 has been estimated to be 387358 people. The tribal population of Jharkhand is predominantly rural, with 91 percent of tribals residing in rural areas. According to the 2011 Census, the sex ratio amongst tribals in Jharkhand is higher than the national average for ST population (990 per 1000 males), at 1003 females per 1000 males<sup>255</sup>. Santhal, Oraon, Munda and Ho tribes constitute the largest proportion of tribals in Jharkhand.

### **Latehar District: Background**

District Latehar, purposively chosen for this study, has an ST population of 45.5percent. Scheduled Castes (SCs) and Scheduled Tribes (STs) comprise of over 66 percent of the population. The predominant tribes in the district are Chero, Oraon and Kharwar. It is also home to several PVTGs such as Paharia, Birhor, Asur, Korba and Birija. Manika block has 84 villages, of which 2 villages are depopulated. There are 15 Panchayats within the block. Manika block has a predominant tribal population with 49.42 per cent STs and 22.93 per cent SCs. Sex ratio in Manika is 961 females per 1000 males and the literacy rate is 59.24 per cent<sup>256</sup>.

Another factor that is unique to Latehar district vis-à-vis the study is the relationship between sustained political movements, such as the naxal movement, and the control over land and natural resources by indigenous tribal groups. .

Latehar is a forest dominated district, with 47.22 per cent of the total area under forest cover<sup>257</sup>. It is famous for its rich natural beauty, forest, forest products and mineral deposits. Latehar remained an integral part of Palamu District as a sub division since

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<sup>253</sup>Indian Anthropologist, Lalita Prasad Vidyarthi classified tribes in Jharkhand on the basis of their cultural types. The 32 tribal groups in Jharkhand are as follows: Munda, Santhal, Oraon, Kharia, Gond, Kol, Kanwar, Savar, Asur, Baiga, Banjara, Bathudi, Bedia, Binjhia, Birhor, Birjia, Chero, Chick-Baraik, Gorait, Ho, Karmali, Kharwar, Khond, Kisan, Kora, Korwa, Lohra, Mahli, Mal-Paharia, Parhaiya, Sauria- Paharia and Bhumij. Further details available here: <http://www.jharkhand.gov.in/tribals> (Accessed 14 February 2016)

<sup>254</sup>PVTGs in Jharkhand are: Asurs, Birhor, Birjia, Korwas, Mal Paharia, Parhaiyas, Sauria Paharia and Savar. Available here:

<http://tribal.nic.in/Content/Particularlypercent20Vulnerablepercent20Tribalpercent20Group.aspx>  
(Accessed 14 February 2016)

<sup>255</sup>Census of India 2011

<sup>256</sup>All above figures retrieved from <http://latehar.nic.in/> (Accessed 14 February 2016)

<sup>257</sup>Purwar, R. (n.d.). Proposal Special Infrastructure Scheme: Action Plan for Latehar District 2010-11 & 2011-12. Retrieved February 14, 2016, from <http://latehar.in/PDF/Planing/Special Infrastructure Sheme PLAN 2010-11 and 2011-12.pdf>

1924. It got promoted from sub divisional status to a district on 4th April 2001<sup>258</sup>. There are two subdivisions (Latehar and Mahuadanr) and nine Community Development Blocks in the district within which distantly located villages are scattered amidst the dense forest, hilly terrains and agricultural fields. The number of Scheduled Castes and Scheduled Tribes is predominantly high here and Latehar comes under Tribal Sub Plan Area.

## 2. Land alienation in Jharkhand: Narratives

The two villages chosen for this study in District Latehar, Block Manika, were Lanka and Kope. These two villages were purposively chosen as the two villages are similar geographically and culturally, yet there is a stark difference in their tribal composition. The village Lanka has a predominantly tribal population with an approximately 80 percent ST population<sup>259</sup>, the most dominant of which are the Kharwar tribe. Kope, on the other hand has a ST population of 42 percent<sup>260</sup> with the Oraon tribe dominating the tribal population. This choice had also been endorsed by the local field partners.

The site of research – the village wherein one could analyze at the community level, the factors and consequences of land alienation on the tribal families living in these villages. A number of participatory research tools were applied to gather information in these villages such as Focus Group Discussion (FGD), Transact Walk and In-depth interviews. Although Participatory Land Survey was another tool used to determine the extent of land alienation in the villages, but the outcome could not be segregated into Scheduled Tribes and non-ST categories since the Record of Rights for these villages (against which PLS is conducted) does not have a column for

*"We try to get water from the diesel tank etc but it doesn't work. It doesn't rain here every year, and it becomes a problem for us. There was no corn or paddy this year due to lack of rains. Even the farm produce is sometimes not sufficient to feed the family because of frequent droughts in this area. There are no alternate provisions for water here if it does not rain. The situation has not improved over the years. It is as bad as it used*

<sup>258</sup> Vide Jharkhand Govt. -notification No 946 dated 04.04.2001. Source: <http://latehar.nic.in/> (Accessed 14 February 2016)

<sup>259</sup> Census of India 2011, Ministry of Home Affairs, Government of India. Available at <http://www.census2011.co.in/data/village/366874-lanka-jharkhand.html> (accessed 14 February 2016)

<sup>260</sup> Census of India 2011, Ministry of Home Affairs, Government of India. Available at <http://www.census2011.co.in/data/village/366873-kope-jharkhand.html> (accessed 14 February 2016)

caste/tribe. The sharing of experiences by the various stakeholder groups in the community such as women, elderly, youth, Government officials like the Patwari and BDO, PRI members helped in building a village narrative on the aspects of land alienation.

## 2.1 Village 1: Understanding land alienation in Lanka

Lanka in Manika Block is located approximately 200 km from Ranchi, capital of the state of Jharkhand and 50 km from Daltonganj, the nearest city. It lies midway between two major cities. The communities that reside in this village are Harijan (SC), Kharvar (ST), Oraon (ST), Teli (SC), Lohara (ST), besides the persons belonging to the general caste. Each community limits its interaction within itself and follows its own rituals. The main occupations of the people of the village are farming and manual labour, wherever necessary. The crops that are grown in the area are mainly corn, wheat, spices (rai), goham. The farming is sufficient to feed the families, but not sufficient for commercial purposes.

“People from outside rarely visit our village and mostly people from NGOs make some visits but after initial one or two visits they vanish”, a resident of the village expressed indicating his negative perception about NGOs on seeing the field researchers.

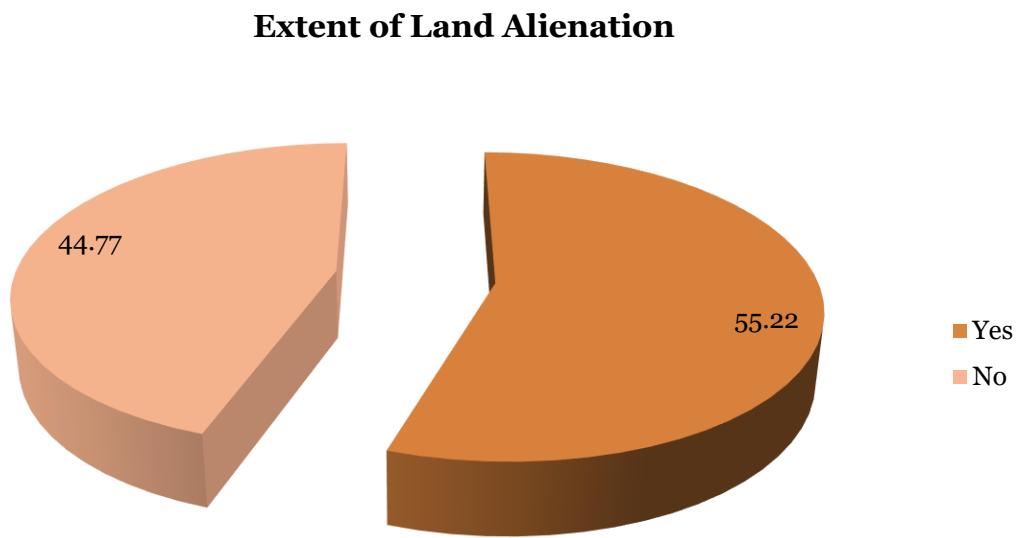
Residents of the village belonging to different age-groups, socio-economic status and cultural background were interviewed, throwing light on their tribal customs, changing environment, education, problems they faced in the village etc. However, the most pressing issue currently was the influence on their lives by the '*Party People*' – the erstwhile Naxalites. The village is under considerable influence of naxal Till about a few years earlier it was the hub of naxal activity because of its interior location and dense forest. Over a period of time the extent of influence of the naxals decreased because the forest cover reduced and the power of the military - the CRPF heightened thereby pushing the naxals away from the interiors of the village. The people were divided about the impact of naxalism in their life. Some said that it was good as they helped the villagers in demanding their rights over resources while some others felt that they offered no support.

The problems shared by the villagers revolved around their resources. One such issue was the scarcity of water and this was shared in almost all the interviews. Water was neither available for drinking or for irrigation purposes. Agriculture was completely dependent on rain and according to them, the rainfall was so low that they were facing

situation of drought. According to the villagers, this village had also witnessed death from starvation.

**Tribal profile of village:** The village of Lanka is spread across 5 Tolas<sup>261</sup> out of which the household survey was conducted in 2 Tolas. This is because the other Tolas were located in the interiors of the village area and were quite remote. They were also tagged as 'naxal-prone' areas due to which our partners from Vikas Sahyog Kendra advised the team to avoid these areas on account of safety issues.

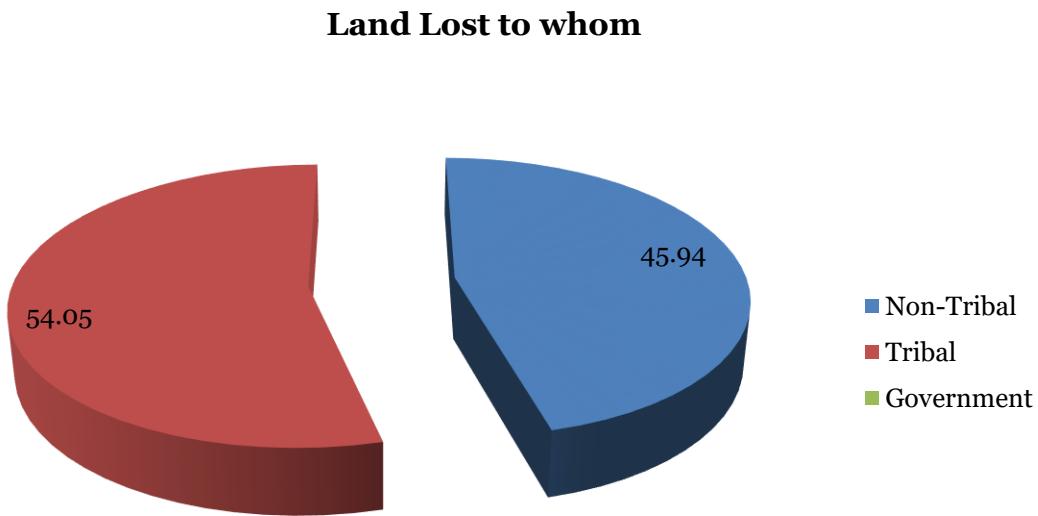
**Findings:** Out of 67 households visited across the 2 Tolas, 37 households stated that there has been Land Alienation in the village whereas 30 households reported no incidence of land alienation. The following pie chart gives a picture of the same:



For those households who reported alienated land holdings, 45percent households reported that they lost their land to non-tribal population. However, 54percent households shared that they had lost their land to other tribal families.

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<sup>261</sup> Tola is a colloquial term for 'village hamlets' used in Jharkhand.

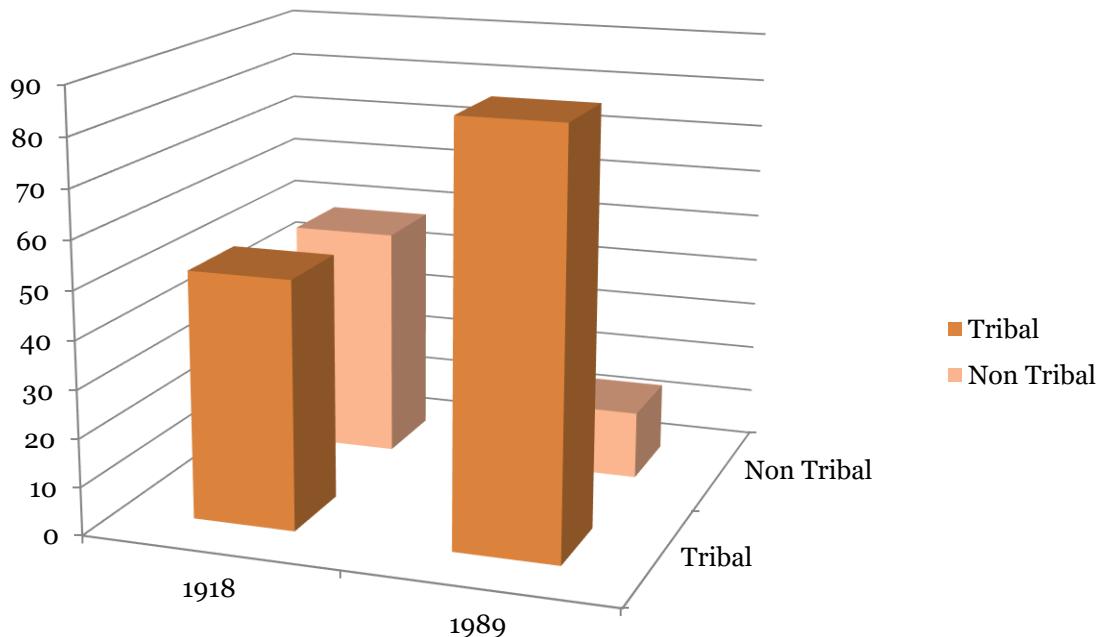


During an FGD with the villagers on tribal Land Alienation, it was revealed that most of the land that was alienated to the non tribal was mostly acquired by upper caste families such as the zamindars, the brahmins and the Rais. Alienation had been taking place since two to three decades. The Brahmins and Rais of the community held political representation and power and were also resourceful. They used their influence in order to amass land illegally thereby leading to land be alienated from the poor farmers. According to the community members, land alienation is not a recent phenomenon but has been going on for decades. In order to triangulate this data, we researched on the survey data from the village level surveys that have taken place in Lanka since 1900 onwards to determine the tribal and non-tribal land holding in the village. We found out that, contrary to what had been reported, in 1918, 51.52percent of land belonged to tribal families whereas 48.27percent of land belonged to the Non-tribal families. The aggregate area of land holding by tribal families had increased to

*“I have seen my land  
being alienated and used  
by an influential family  
in front of my eyes.  
Every day I pass across  
my land without the  
power of setting foot on  
it. It is not only my land  
but my rights that have  
been alienated”*

*-A villager who  
wishes to be  
anonymous*

85.78percent in 1989 whereas non-tribal land occupation was reduced to 14.1percent.<sup>262</sup> This data has been represented in the graph below.

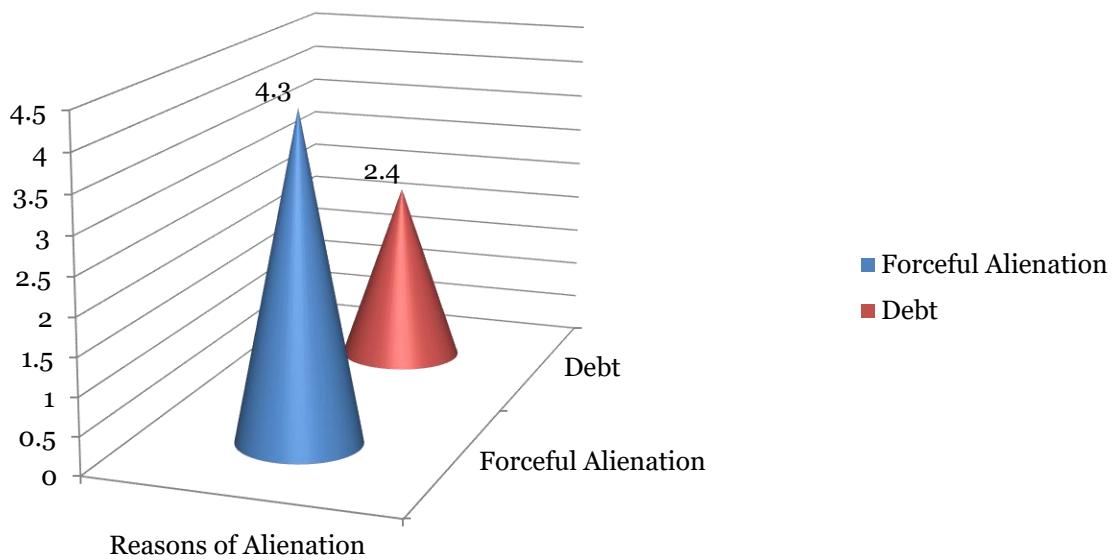


A reason for this increase in tribal land holding might be due to the influx of tribal communities as well as expansion of population in the village. Another reason may be due to the sale of acquired land by the non-tribal at higher rates to those tribal families who migrate to Lanka from neighbouring areas. Yet another reason can be incorrect data collected and stored in the government records leading to misrepresentation. Thus, the data may or may not be related to land alienation.

### Process of Land Alienation:

A substantial number of community members reported forceful land acquisition as the reason for alienation while some also reported repayment of debt as a major cause of alienation. Therefore there were push as well as pull factors for the incidence of land alienation in the village.

<sup>262</sup>1918 data has been sourced from Cadastral Survey of Latehar District and 1989 data has been sourced from Revisional Survey of Latehar District.



**Forceful land alienation**, which was reported by 80.64percent of the community members, has been the biggest push factor for causing land alienation in the village. The community members have faced this in the hands of rich and landed Zamindars who mostly belong to non-tribal communities. The Zamnidars belong to 'upper caste' and have influential connections with the Pattwari, police and other law and order personnel in the community. Due to their powerful relationships, they are able to pressurize the tribal families into giving up their land without a choice.

**Debts** have also caused a number of impoverished tribal families to mortgage their land and eventually sell it for the purpose of repayment of a loan.

People have died in this village due to starvation and as the tribal families have increased and the forest produces as well as the farming land have decreased

*"The Party People investigate the injustice done to our people. They fight for us and do not let any form of injustice happen to us"*

*-A resident of Lanka who wishes to be anonymous*

## 2.2 Village 2: Understanding land alienation in Kope

Kope and Lanka are divided by only one road. On one side is kope and on the other side is Lanka, although there is not much of geographical difference between the two villages but the difference between the communities residing in the two villages is quite observable. The community which resides in Lanka is Kharwar but in comparison, the Oraon tribe resides in Kope. The former community appears to be more dominant than the latter, both in terms of land ownership as well as political influence.

Most of the villagers belong to the Uraon tribe and they are therefore in majority and quite influential in this village to and play an important role in the decision of the village. However during our the in-depth interviews it came out that the tribal considered themselves as inferior and of 'lower class and caste'. During an interview with a resident, Girij Uraon, he said that he is from a "neech Jaat"(inferior caste) and tribal identity is something from which they would not want their children to be associated.

It was also reported that out-migration was very common in this village. The conflict between the older and newer generation was quite apparent during our conversations with the villagers. According to the new generation, the old people always lived under the fear of Zamindars and upper caste people like Brahmins who always exploited them and as a result they lost all the land to them. But the newer generation was not scared to fight the mighty Zamindars. With this vigour, the newer generation in the village supported the cause of an old village resident Shaymjji who fought for a long time for his many land cases and also won few of them although he was never able to get hold of that land.

**Tribal profile of village:** The village of Kope has only 1 Tola and the Household Survey was conducted in the Tola.

*"The youths are interested more in cities as it provides more opportunities and good standard of life. All the facilities like hospitals to schools are far beyond imagination for them in village. We have witnessed deaths due to lack of adequate and quality medical facilities. But running is not a solution. City life is also not a cake walk, dying in our own village with our own people is far better than dying lonely at any foot path."*

*-Giri Oraon,  
Resident, Kope*

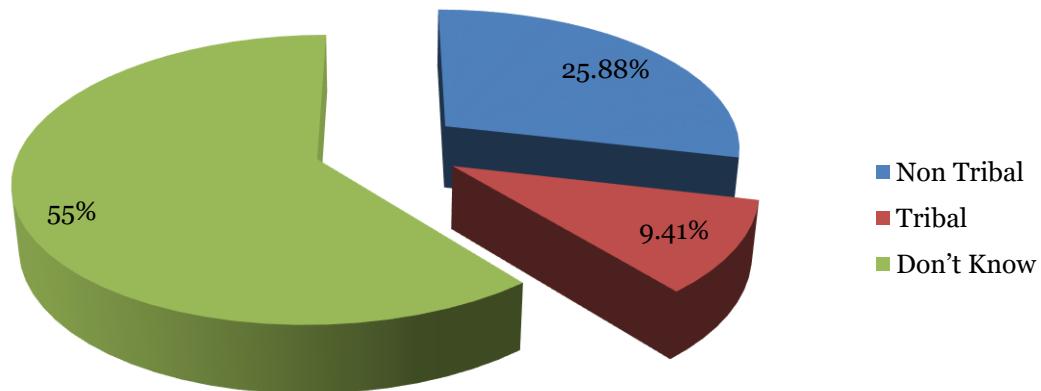
**Findings:** Out of 250 households that comprised the village, 85 households were surveyed for the Household survey. 31 households reported that they have faced Land Alienation in the village whereas 54 households reported no incidence of land alienation. The following pie chart gives a picture of the same:

**Extent of Land Alienation**



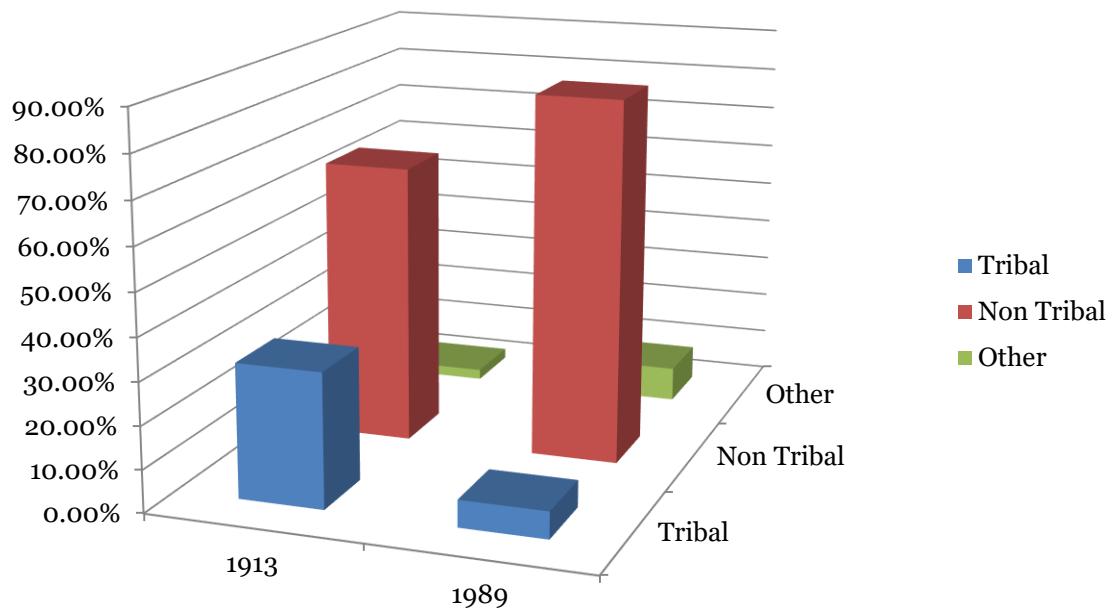
For those households who reported alienated land holdings, 55percent households reported that they did not know to whom they lost their land. However, 25percent households shared that they had lost their land to non tribal families and only 9.4percent had lost their land to other people who belonged to tribal communities.

**Land Lost to whom**



During an in depth interview with a resident of the village it was realized that area of land belonging to the members of tribal communities had become very less in the village as compared to past. This also came out in the land survey data reports of two years -

1913 and 1989 from government land surveys that held in Kope village. The detailed graph is depicted below:



### Process of Land Alienation:

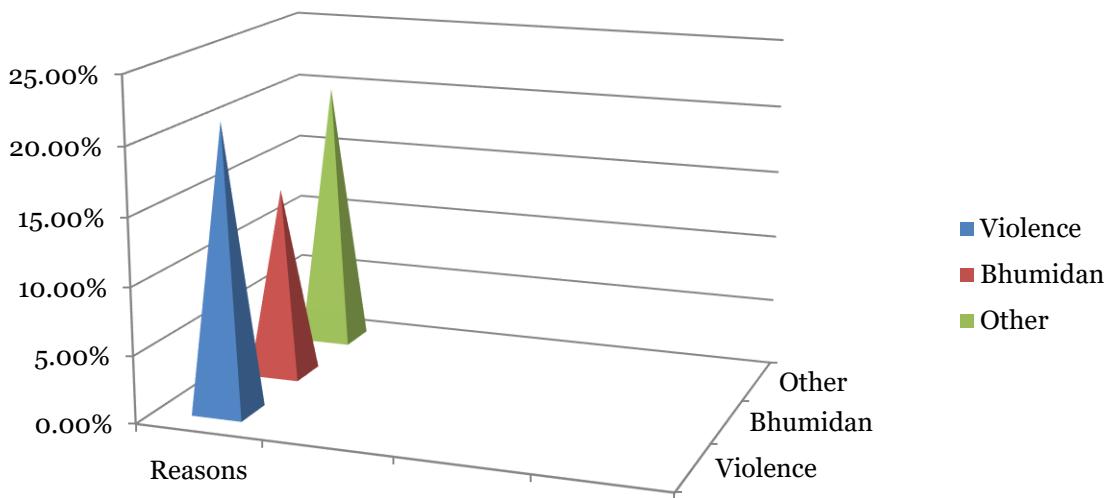
**Violence:** Non tribal encroachment leading to violence has led to a large extent of land alienation. Several anecdotal evidence points to the forceful acquisition of tribal land by the dominant groups such as the upper-caste Hindu communities.

**Bhumidan:** One of the modes of transfer of arable land so as to give it a legal façade is to gift the land to a non-tribal person, known as “bhumidaan”. If the deputy collector gives the nod to such a transfer of land, that may be in fact coercive in nature, then this transfer is considered valid.

**Other:** Impoverishment, debt and mortgaging of land are other factors that may lead to transfer of tribal land to non-tribal population.

*“The impact of non-tribal encroachment has influenced our lives and culture deeply, from dowry to clothes to food, everything seems copied from non-tribal”*

*-quote from resident, Bola*



### 2.3 Factors for Land Alienation

The push and pull factors of land alienation are quite visible in this village which too has witnessed death from starvation like Lanka. The villagers mostly belong to very low socio-economic status and due to the remoteness of the village and other factors related to village dynamics, no government facilities reach to aid the poor villagers. At a school visited in the village it was observed that the mid-day meal attracted a lot of children as they get to eat something. It was a village of starving families and for them quality of food did not matter but what mattered that they were getting a one-time meal. The pull factors leading to land alienation pertaining to the village of Kope and the PVTG of Oraon living in the village are discussed below:

- **Increased incidence of illegal land grabbing** has occurred in this village where non-tribal are observed commonly forcefully acquiring land from tribal. According to a resident of the village "*The tribal are simple people and they don't have sense of politics and are not manipulative people. They eat, drink and dance, they did not needed anything else for survival but encroachment of non-tribal have brought us here where we are fighting or struggling to survive*".
- **High exploitation by upper caste** has led to an inferior state of the tribal. The Zamindars & Rajdari are non-tribal and powerful people who hold a lot of resources and political connections as a result of which the tribal cannot fight

with them. Even though few tribal have registered cases, their encroachment continues to increase day by day.

- **Local governance setups are dysfunctional** and the Gram sabhas are held rarely. The tribal population usually don't attend any village meetings as they are not entertained by the village Mukhiya.
- **Substance abuse and unemployment among youth.** One of the produce of forest which is used diversely and extensively is Mahua. It is also used to make local liquor. Mahua helps the tribal community financially as it sells fast in the market but on the other hand consumption in large quantities causes ill health among them.
- **Exploitation by money lenders** who usually mortgage land. If a loan is taken from the Mahajan, he charges a 10percent interest rate, and he might take over the land in case of non-payment of the loan amount. There used to be benami<sup>263</sup> transfers earlier, but it doesn't happen anymore.

## 2.4 Impact of Land Alienation on Tribal Wellbeing

Tribal land alienation has caused a lot of frustration among the tribals and as a result led to social malpractices like increased alcoholism among men, domestic violence and suicide. The land alienation has therefore affected their life in many ways. The encroachment of land belonging to tribals not only affected the ownership pattern of landholding but also affected their culture and life style. Following are some of the changes in the standard of living and the culture that were reported during qualitative discussions with the community members in both villages:

- **Tribal Movements and Naxalism:** Earlier the village was predominantly known for its naxalite presence, but with time, goons have started robbing innocent people in their names which has caused their downfall. The administration refuses to visit the villages as it is naxal zone. Therefore, the villagers are stuck in between. They neither get facilities from government nor do they get their rights.

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<sup>263</sup> Defined in Merriam-Webster dictionary as: made, held, done, or transacted in the name of (another person) —used in Hindu law to designate a transaction, contract, or property that is made or held under a name that is fictitious or is that of a third party who holds as ostensible owner for the principal or beneficial owner

- **Non- tribal customs have infiltrated into the tribal culture.** For example, earlier there was no practice of dowry in tribal marriages. However, in recent times, this malpractice has been taking place among the tribal families of the village. One such resident, Somvati, 45 years, stated “*in earlier times we never gave Tilak (Dowry) to the groom’s family but in present time, it is a necessary evil in order to get good groom for a daughter. We have to arrange money anyhow for the Tilak otherwise marrying a good groom is not possible*”. However the dowry has still not been considered as good practice and carries with it a negative connotation. In the village, the community members shared that when they marry their daughters, they mostly give them dowry as part of their share in property.
- **Bribery has also increased as a result of land alienation** due to the negative influence of an ill-minded Zamindar who uses illegal means to transact and alienate land. As a result, those officials who are in his web start using illegal means for their own profit as well. They are assured safety by the rich and powerful Zamindars. For example, in a resident of Lanka reported “*The sarpanch takes bribe for sanctioning our rightful money in our account under Indira AwasYojna. We usually receive an amount of Rs.20000 but the Sarpanch takes Rs.5000 for issuing the money in our account. Moreover, even bribing him is a risk as we are not sure whether he would sanction the money even after that. There have been cases where some have given him bribe but he has not sanctioned the money for them. On one had we are scared of giving bribe as it is illegal but on the other hand, we cannot complain against him as it will anger him he will not help in any services for future.*”. Similarly, there have been reports of officials taking a bribe of Rs 5000 for providing benefits under the Indira AwasYojna, even when there is no certainty of the rendering of services.
- **Poor status of education among children** has been cause due to extreme poverty stemming from loss of land that is the only means of livelihood for the poor farmers. As a result, the children are employed as child labors to earn for their families which deters them from attending school. Many families interviewed complained of the poor quality of education in the school and lack of sufficient number of teachers. Only two teachers are responsible for teaching all classes, and they are also frequently absent. Moreover, children, if they have to

have higher education, are sent to the block headquarter which is not considered feasible, particularly for girl children which has led to their reduced role in the village dynamics. Not a single girl from this whole village of Kope has gone beyond class 10<sup>th</sup>.

- **Lack of proper roads and transportation facilities along with lack of village amenities like hand pumps for the supply of drinking water etc.** has been the biggest road block in the development of community life. This has also been traced back to land alienation and misuse of money sanctioned for village development activities by the local governance setups. The village is situated in very interior and surrounded by dense forests and due to these lack of facilities, life becomes difficult for the tribal inhabiting it.
- **Status of women** analyzed from the perspective of land alienation reveals details of the poor status enjoyed by them. The village illustrated a society in which women suffer heavily due to domestic violence. Women are mostly engaged in household work some also work on farms. The women of the village do not take up any employment through MNREGA because they are not paid the sanctioned amount. Also, the Anganwadi Centre in the village which is supposed to provide nutritional supplements to pregnant women, lactating women and adolescent girls is unable to function properly as vitamins or nutritional supplements do not reach the Centre and there is no monitoring mechanism it. Also, the construction sites are often far away and there is a connectivity problem in this village because of which they are unable to go. Another problem is that MNREGA requires them to open bank accounts. It takes at least Rs 500-1000 to open these bank accounts, which they often do not have.
- **Poor health facilities** impacted the life of the tribal in the village. There was a private doctor who gives medicines during emergencies but in serious cases the patients were taken to Manika or Daltonganj which was very far from the village and the roads were in very poor condition. It takes a whole day to reach from the village to the closest destination where medical assistance is available.

### Case Study of Tribal Land Alienation

“The Zamindars took over our land at the time of my father’s death. I was too young that time and did not understand what is happening. I had a land dispute in my family. Some Bhaant people (zamindars) had stolen some land from my father. This was 5 acres of forest land that my father had inherited from my ancestors. The Bhaant’s house was closer to the land than my house, and they took over the land. The Bhaant sold their land to the non-tribal’s and over the time they have increased the boundary of their bought land and stretched to our land and in they stretched so much that they have totally thrown us out from our land.

We did not fight in the village, and my mother did not take any action. But when I grew up and was informed about the atrocity done to us, I filed a case in the court. The case started and at every court date we had to give some fees. I fought the case for 7 years in the court and had to make payments of Rs 12,000 or Rs 2000 or Rs 7,000 at every appearance. Finally the court decree came in my favor. Even then, the Bhaant still refuses to hand over the land to me. He has offered to give me half the land and keep the other half with himself. However, I refused to take up that offer. I will either take the whole portion of land, or none at all.”

### 2.5 Summing up: Tribal Land Alienation in Lank and Kope

Latehar and Palamu, of which Latehar was earlier a part, have a history of organization and strong resistance against encroachment of their rights. During the 1857 Movement, Palamu (which encompassed the present-day Latehar district until 2001) was the most severely affected district of the Chotanagpur plateau. The Kharwar and Chero tribe leaders were actively involved in the freedom movement in the country. It is noteworthy that the movement in Palamu was no mere sepoy mutiny but an uprising of the indigenous population of the district.

In the more recent years, Latehar has been known to have a strong naxal presence which has been a decisive factor in all land-related matters in the area. The low levels of land alienation amongst tribals in the area in the last few decades can also be attributed to

this factor. Several anecdotal evidences point to the fact that there has recurrently been restoration of benami transfers of land with naxal intervention, although there is no reliable data available to triangulate this information.

There are principally five splinter naxal outfits who have managed to carve out their respective spheres of influence namely the CPI (Maoist), the TSPC (Tritiya Samellan Prastuti Committee), the JPC (Jharkhand Prastuti Committee), the SJMM (Sangharsh Jan Mukti Morcha) and the JJMP (Jharkhand Jan Mukti Parishad). Barring occasional if rare skirmishes with the other splinter groups only CPI (Maoist) is involved with a direct confrontation with the district police forces<sup>264</sup>. There have also been reports of human rights violation of the tribal population in the name of anti-naxal operations<sup>265</sup>. The findings from both the villages (based on household unit instead of acreage of land as in other states due to lack of proper availability of land records) suggest that there has been an approximately 55percent of land alienation amongst tribals in the village Lanka and 36.4percent in the village Kope. Of this, 45percent of land has been lost to non-tribals in Lanka village, and similarly in Kope village, 25percent of land has been lost to non-tribals. However, since there was no reference year in the surveys that were conducted, it has not been possible to trace land alienation over a specific time period. As per the interviews that were conducted with different stakeholders, most of the alienation took place in the pre-independence era as a result of forceful takeover of land by the dominant castes and also due to non-payment of debts. Although seemingly different, these two factors are in fact inter-related and deeply ingrained in the dominant caste structure pervading the region. The relationship between indebtedness and socially vulnerable groups has been constantly flagged through various studies<sup>266267</sup>.

The land records for 1913-1918 and for 1989 for the two villages show that in Lanka the tribal ownership of land has increased from 51.52 percent in 1918 to 85.78 percent in 1989. Whereas, in the village Kope, tribal ownership of land has decreased from 31.57

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<sup>264</sup>Purwar, R. (2010), 'Proposal Special Infrastructure Scheme: Action Plan for Latehar District, 2010-11 & 2011-12'

<sup>265</sup>Oraon, R. C. (2015). Status of Civil (Life and Liberties) Rights of Tribals in Anti- Naxal Operations: A Case of Jharkhand. *The Rights*, 1(2). Retrieved February 14, 2016, from [http://yir.co.in/wp-content/uploads/2015/12/Ram\\_C.\\_Oraon.pdf](http://yir.co.in/wp-content/uploads/2015/12/Ram_C._Oraon.pdf)

<sup>266</sup>National Sample Survey Organization, Department of Statistics (1998), 'Household Assets and Indebtedness of Social Groups as on 30.6.91: Debt and Investment Survey', NSS Forty-Eighth Round, Ministry of Planning & Programme Implementation, Government of India, Available at

[http://mospi.nic.in/reptpercent20\\_percent20pubn/432\\_part1\\_final.pdf](http://mospi.nic.in/reptpercent20_percent20pubn/432_part1_final.pdf) (Accessed 28 March 2016)

<sup>267</sup>[http://planningcommission.nic.in/plans/planrel/fiveyr/10th/volume2/v2\\_ch4\\_2.pdf](http://planningcommission.nic.in/plans/planrel/fiveyr/10th/volume2/v2_ch4_2.pdf) (Accessed 28 March 2016)

percent in 1913 to 6.35 percent in 1989. Much of this data, however, can be attributed to various other factors that could not be recorded, such as changes in the boundaries of revenue villages.

The social conditions amongst tribals in the two villages are extremely poor and this is what came out as major concerns for the tribal populations in the interviews and FGDs with them. For instance, access to water was one of the foremost issues that was flagged by the interviewees. Since land ownership is deeply connected to the social conditions existing for the concerned community, these factors influence tribal ownership of land as well. Factors such as lack of proper education and unemployment directly relate to the factors of indebtedness and poverty, which have been seen to be the major causes for tribal land alienation in these two villages.

### 3. Historical setting

#### 3.1 Pre-independence era:

Jharkhand being a state rich in natural resources such as coal, iron ore, copper ore, bauxite, mica, fire clay, graphite, kyanite, lime stone, uranium and other minerals, has been the site of several land-related conflicts over the centuries. At present, Jharkhand is the leading producer of mineral wealth in the country<sup>268</sup>. At the same time, there has been a strong presence of local movement in Jharkhand against forceful land acquisition- dating as far back as the Mughal era, to the British colonialism, as well as in independent India wherein there has been a resistance both against government-sanctioned as well as illegal acquisition. Interestingly, the movement in Jharkhand has always been a mass struggle of sections of populations that are traditionally looked at as “backward”. During the Jharkhand movement of 1990s the term “Jharkhandi” came to be associated with all the deprived sections of the Indian society, and the state was called “the land of the destitute”<sup>269</sup>.

Jharkhand has been witness to several land-based movements such as the Munda movement led by Binsu Manki after the transfer of Jharkhand to the East India Company in 1771<sup>270</sup>, as well as the Bhumiji Revolt of Manbhumi (1798-99), Chero uprising of Palamu (1800) and the two uprisings of Munda in the Tamar region during 1807 and 1819-20. Two of the earliest rebellions with most influence and impact were the Kol

<sup>268</sup><http://www.jharkhand.gov.in/minerals> (Accessed 14 February 2016)

<sup>269</sup>Louis, P. (2000), 'Jharkhand: Marginalization of Tribals'

<sup>270</sup>Areeparambil, M. (1997). A Brief History of the Jharkhand Struggle for Self-Rule. *Indigenous Peoples of India*, 1, 26. Sarini Occasional Papers

insurrection in 1830-33 under the leadership of Singhray and Binray Manki and the Santhal Rebellion during 1855-57 led by Sidhu and Kanu<sup>271</sup>. This was followed by the Munda ulugulan in 1897 led by Birsa Munda against the British colonial powers as well as the local zamindars and moneylenders<sup>272</sup>. While the series of revolts and uprisings caused the colonial powers to recognize the rights of tribals in their land through survey and settlement operations, but it also led to the formal legitimization of the rights of the landlords. Improper and callous rehabilitation in the post-independence period has accentuated the problem of alienation<sup>273</sup>.

### **3.2 Post-independence era: Movement for Jharkhand State Formation**

The main aim of the Jharkhand movement as had been set out originally was the creation of a separate “Adivasi state”. This was later changed from a demand based on ethnicity to region based demand after the 1941 census revealed that adivasis constituted only 44percent of the population of the region. A Committee on Jharkhand Matters (CoJM) was set up during the Rajiv Gandhi regime (1990) which revealed that while Jharkhand region contributes about 70 percent of the revenue to the state exchequer (then Bihar), in return it receives only about 30 percent for utilization<sup>274</sup>.

Horo (2013) identifies four basic reasons for the unrest amongst tribals that led to what has been referred to as the “Jharkhand Movement”<sup>275</sup>:

- a) **Land and forest alienation:** This included large-scale transfer of tribal land to outsiders, especially for the purpose of mining and industry. A sizeable amount (nearly 50 lakh acres) of forest land was taken away under the Indian Forest Act of 1878, 1927 and Bihar Private Forest Act of 1927<sup>276</sup>.
- b) **Training and job deprivation:** The influx of outsiders into what is today the state of Jharkhand had led the ratio between the two to become 70:30, which had

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<sup>271</sup>Horo, A. (2013). Jharkhand Movement. *International Journal of Humanities and Social Science Invention*, 2(4), 1-6. Retrieved February 19, 2016, from [http://www.ijhssi.org/papers/v2\(4\)/version-2/A240106.pdf](http://www.ijhssi.org/papers/v2(4)/version-2/A240106.pdf)

<sup>272</sup>Munda ulgulan was a revolt in the present-day Jharkhand state led by Birsa Munda in the year 1897 against the British colonial powers as well as the local zamindars and moneylenders. Details available at <http://www.tribalzone.net/people/birsamunda.htm> (Accessed 2nd February 2016)

<sup>273</sup>Sharan, R. (2005). Alienation and restoration of Tribal Land in Jharkhand: Current Issues and Possible Strategies. *Economic and Political Weekly*, 4443-4446.

<sup>274</sup>Gupta, T. D. (1994). Little Autonomy in Jharkhand. *Economic and Political Weekly*, 2905-2906.

<sup>275</sup>Horo (2013), 'Jharkhand Movement'

<sup>276</sup>Munda, R. D. (1988). The Jharkhand Movement: Retrospect and Prospect. *Social Change*, 18(2), 32.

until four decades earlier been 40:60<sup>277</sup>. This further led to job deprivation and increasing insecurity amongst the tribals for their livelihood.

- c) **Cultural Submergence:** Horo (2013) notes how there was a constant degeneration of what they thought was the tribal identity, causing further insecurity amongst them.
- d) **Unbalanced Development:** The Jharkhand region contributed to approximately 70percent of the total revenue of the state of Bihar whereas the state assistance for development expenditure of this region was merely 20percent. Sengupta (1982) and other political scientists call this the emergence of the “fourth world”<sup>278</sup>.

The United Jharkhand Party was created in 1948 by Justin Richard, a tribal leader. After the Adivasi Mahasabha merged with this party, the Jharkhand party was created in the year 1950. A memorandum was presented to the States Reorganization Committee (1953) for a separate state of Jharkhand, but the demand was put aside by the committee<sup>279</sup>.

There was disintegration among the parties and consequently the movement lost its vigour. The endless list of splinter parties affected the movement negatively. After a uneventful period of ten years, in 1973 Jharkhand Mukti Morcha (JMM) under the leadership of Sibu Soren came into prominence. The movement again gained momentum after the formation of the Jharkhand Area Autonomous Council (JAAC) in 1995. The JAAC has been criticized by many thinkers such as Tilak (1994) for not including Jharkhand organizations as original parties, not providing legislative powers over subject matters, not having any fiscal powers, and for not having jurisdiction over the mining and industry sectors<sup>280</sup>.

Going through an Assam Model of agitation, an All Jharkhand Students Union (AJSU) was formed, whose main aim was to include youth of the region in the ongoing movement. On the other hand the Jharkhand Party (Horo group), presented another memorandum which was again for the formation of the separate statehood. Once again

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<sup>277</sup>Ibid. (p.34)

<sup>278</sup>Sengupta, N. (1982). *Fourth World Dynamics: Jharkhand*. New Delhi, Delhi: Authors Guild Publication.

<sup>279</sup>Horo (2013), ‘Jharkhand Movement’

<sup>280</sup>Gupta (1994), ‘Little Autonomy in Jharkhand’

this proposal was refused by the parliament. A lot of reasons were given and the most important was “lack of common language” across the region.

Meanwhile, the Bhartiya Janta Party (BJP) attempted to assimilate the region in the national political system and came up with the proposal of making “Jharkhand” as “Vananchal” and made a clean sweep in the Lok Sabha elections in 1996.

After a tripartite agreement signed by the Centre, the Bihar government and Jharkhand leaders the Jharkhand Area Autonomous Council (JAAC) was set up in 1995. In July 1997, Shibu Soren extended support to a minority government of Laloo Yadav with a condition of a separate Jharkhand bill. The Lok Sabha on August 2, 2000 passed the bill to create a separate state of Jharkhand.

Parliament approved the formation of Jharkhand when the Rajya Sabha passed the Bihar Reorganisation Bill 2000 on August 11, and on August 25, President K.R. Narayanan gave his consent to the bill. The Centre issued the gazette notification on October 12, 2000, and fixed November 15 to be the date for the formation of new Jharkhand government. Therefore, on November 15, 2000 BJP leader Babulal Marandi became the first Chief Minister and Prabhat Kumar administered him oath of office as the first Governor of the state.

### **3.3 2000 Onwards: Post-State Formation**

In the present scenario, while individual transfer of adivasi land into non-tribal hands has seen a decline over the last few decades, but the systematic acquisition of land by the State and by corporates for purported “public purposes” has continued unabated, despite regular resistance by the locals. As remarked by an activist protesting against the proposed field firing range at Netrahat in Palamu of Jharkhand. “It seems that the tribes have the sole responsibility of developing the country. Why all the dams, factories and firing ranges are built only in tribal areas. I also want to ask them: Is it the only way you have to develop the country”<sup>281</sup>. The continued alienation of tribals from the land in Jharkhand has a two-fold impact of intensifying the poverty amongst the tribal populations along with threatening their identities in their own homeland<sup>282</sup>.

For instance, Arcelor-Mittal has been pursuing the setting up of a coal block in Gumla and Kumti districts of Jharkhand, a decision which was also endorsed by the local MP. This was met with resistance and protests by Adivasi, Moolvasi, Asthitva Raksha Manch

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<sup>281</sup>Louis (2000), ‘Jharkhand: Marginalization of Tribals’

<sup>282</sup>Sharan (2005), ‘Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies’

(AMARM)<sup>283</sup>. After signing the MoU in 2005, several protests and litigations against the agreement occurred. The company was earlier allotted Serhegara coal block in Latehar but it got cancelled after the Supreme Court's directive in the wake of the Coalgate scam<sup>284</sup>. The Raghubar Das government in 2015 gave approval to the company to carry out prospecting work at Karmapada reserve forest area inside Saranda forest division in west Singhbhum<sup>285</sup>.

Therefore, in the current situation, on the one hand, alienation of adivasi land to non-adivasis has declined due to the rise in consciousness and struggle for land as compared to the period from pre-independence onwards up to the 1980s when a large-scale alienation did occur. While on the other, Adivasi land continues to be alienated for 'public purposes' like mining and industry. The pace of intra tribal land transfers particularly to richer and dominant tribal groups from the poorer and 'primitive tribal groups' (PTGs) has increased, along with the rise of a new elite and educated class among adivasis, who are aspiring for self-employment<sup>286</sup>.

There are reports of delays in compensation. Inadequate compensation for land and home structures, callous rehabilitation, virtually no compensation for the commons, and non-consultative and non-participative acquisition and resettlement are commonplace in Jharkhand. More land than required has been acquired for public projects. The misinterpretation of the words 'public purpose' and use of land acquired for purposes other than the ones intended (or notified) are also important issues. The communities and their customary rights have been by and large ignored in the state. A wide scale degradation of land due to mining and quarrying has affected even those whose lands are not acquired but who are affected by the wider health and environmental impacts of these processes. Only 25 percent of adivasis were rehabilitated<sup>287</sup>.

According to Sharan (2005), in rural areas, the alienation is basically to meet the day-to-day needs of cash-strapped poor adivasis. In the absence of active markets in rural areas, people resort to illegal mortgages and at times outright sales. There have also been cases in which the adivasi land given to the "bhoodan yagna" committee have been transferred to non-adivasi raiyats, and where pradans (village headmen) have settled lands on non-

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<sup>283</sup> Basu, M. (2008). Arcelor-Mittal in Jharkhand. *Economic and Political Weekly*, 22-23.

<sup>284</sup> Gupta, A. (n.d.). Arcelor-Mittal drill gets nod. *The Telegraph*. Retrieved February 13, 2016, from [http://www.telegraphindia.com/1151120/jsp/jharkhand/story\\_53977.jsp#.VsQ8d7R97Mw](http://www.telegraphindia.com/1151120/jsp/jharkhand/story_53977.jsp#.VsQ8d7R97Mw)

<sup>285</sup>Ibid

<sup>286</sup>Sharan (2005), 'Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies'

<sup>287</sup>Ibid

adivasis or raiyats from other villages for small considerations<sup>288</sup>. This is similar to the situation in the villages chosen for the study, Larka and Kope.

## 4. Legal framework to counter land alienation in Jharkhand

### 4.1 Laws related to transfer of Adivasi land

The colonial land revenue laws in Chhotanagpur (present day Jharkhand) were perhaps unique in India with the extent to which community rights in land and other resources were recognized. But over the years since independence, these rights have been progressively diluted, limiting access to tribals over the use and control of common land<sup>289</sup>. The Chhotanagpur Tenancy Act 1908 was created in response to the repeated agrarian uprisings in Jharkhand throughout the 19<sup>th</sup> Century. It created a special tenure category of “Mundari khuntkattidars” (considered to be the original settlers of the land among Mundas)<sup>290</sup>. The Act, which came into existence as an outcome of the movement led by Birsa Munda, has been considered as one of the most progressive laws of its time. However, in the present-day situation, it has been thoroughly diluted, limiting the access to tribals over the use and control of common land.

After independence, legal changes significantly altered the land tenure system in Jharkhand. The most important of these was the zamindari abolition, effected by the Bihar Land Reforms (BLR) Act, 1950, which provides for the “vesting” in the state of all lands, estates and interests (other than raiyati lands), abolishing all intermediate tenures, and the transfer of all land recorded in the names of zamindars and other tenure-holders to the state<sup>291</sup>.

The Chhotanagpur Tenancy Act (CNTA) and Santhal Parganas Tenancy Act (SPTA) reflect the history of adivasi revolts to protect their forest rights and livelihood. They provide legal protection to customary law and practice. The CNTA provides for the recording of various customary community rights in land and other resources (‘jungle or wasteland’), such as the right to take produce and to graze cattle, as well as the right to reclaim “wastes” or convert land into “korkar” (wasteland that is converted to don or rice land by terracing or embarking). For example, Chapter XI (Section 76) of CNTA

<sup>288</sup>Ibid

<sup>289</sup> Upadhyay, C. (2005). Community Rights in Land in Jharkhand. *Economic and Political Weekly*, 4435-4438.

<sup>290</sup>Ibid

<sup>291</sup> Malhotra, V., & Ranjan, R. (2002). *Commentaries on Bihar Land Reforms Act, 1950*. Patna, Bihar: Malhotra Books.

establishes precedence of custom, usage or customary right even over the act; Chapter XII allows for the preparation of a record of rights (khatian), recording all preexisting conditions.

The SPTA is in many respects similar to the CNTA but it goes a step further in recognizing the customary rights and community life, particularly in relation to the settlement of land and the protection of the rights of the paharias. The SPTA prohibits transfer of all lands (including land of non-adivasis) and allows transfer only in a few categories, while the CNTA permits the sale of non-adivasi land, and of adivasi lands to other adivasis within the same police station and with the permission of the deputy commissioner [Section 46 (a)]. The SC land can be sold to other SCs within the same district [Section 46(b)]. The CNTA also permits alienation of land for specific purposes such as mining (Section 49). The SC and ST Prevention of Atrocities Act has a provision for action against illegal encroachment of land.

There is currently a conflict in public opinion, with one side advocating that there should be only one act for the whole of Jharkhand. The other view is that the two acts (CNTA and SPTA) be preserved as separate since they reflect specific conditions, that they be made more stringent to prevent alienation of adivasi land and that they should be amended in the light of PESA to give the gram sabha control over land, including the right of restoration<sup>292</sup>.

#### **4.2 Settlement surveys: conflicts and present status**

One of the primary documents used for the application of any law, such as the CNT Act, are the surveys conducted by the States documenting the ownership of land, which should ideally be carried out after every 60-years period. However, in Jharkhand, as of 2005, revisional surveys had been completed in only 22 districts, in part due to resistance by local people<sup>293</sup>. Such resistance has not been for unfounded reasons, as has been documented in numerous accounts of how tribal and community rights have been significantly diluted in the areas where new surveys have been completed.

The Jharkhand Indigenous Peoples Forum, consisting of 48 adivasi organizations has contested the census figures, arguing that there has been systematic under-counting of

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<sup>292</sup> Sharan (2005), 'Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies'

<sup>293</sup> Upadhyaya (2005), 'Community Rights in land in Jharkhand'

adivasis<sup>294</sup>. Vasan (2005) also argues that Khatian II, the section of the village record of rights that records user rights and common rights to land and forest, are systematically disappearing and getting destroyed<sup>295</sup>.

Upadhyा (2005) traces the takeover of common village land by the State in Singhbhum district as “gair mazrua am” land (gm land)<sup>296</sup>. The government can legally dispose of gm land, without seeking permission from the local community and without a land acquisition process. Thus, people settled on gm cannot claim compensation for such acquisition, nor can the local community claim a compensation for loss of access to such common land. According to a circular, the government has “absolute discretion in the manner in which *Gair mazrua Am* land is to be utilised”<sup>297</sup>.

Upadhyा also notes how the vesting of gm land in the government contradicts the provisions not only of the Scheduled Areas Regulation Act, which provides for the control of common lands by the gram sabhas, but also the Panchayati Raj Act and the central PESA Act, according to which community lands are to be controlled by the panchayats or gram sabhas.

#### 4.3 Implementation of PESA, 1996

PESA 1996 is another important act which empowers the panchayat and the gram sabha to prevent the alienation of adivasi land and take appropriate action to restore any unlawfully alienated land<sup>298</sup>. Passed by the Parliament on December 24, 1996, PESA was based largely on the committee headed by Dilip Singh Bhuria, although the Act is seen by many as a watered down version of the Bhuria Committee report<sup>299</sup>.

Panchayat elections were not held in Jharkhand for 33 years, and were revived as late as the year 2010 after the Supreme Court verdict upholding the provisions of the Jharkhand Panchayati Raj Act 2001<sup>300</sup>. Jharkhand government has been attempting to circumvent the PESA provision (4i) that requires consultations with gram sabhas before land acquisition by pleading in the courts that in the absence of elections, there can be no

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<sup>294</sup> Mundu, B. J. (2006). *On the Future of Indigenous Traditions: The case of Adivasis of Jharkhand, India* (Master's thesis, University of Tromsø, 2006). Norway.

<sup>295</sup> Vasan, S. (2005). In the Name of Law: Legality, Illegality and Practice in Jharkhand Forests. *Economic and Political Weekly*, 4447-4450.

<sup>296</sup> Upadhyा (2005), ‘Community Rights in land in Jharkhand’

<sup>297</sup> Singh, S. K. (Ed.). (2002). *A Compendium of Revenue Circulars*. Patna, Bihar: Malhotra Bros.

<sup>298</sup> Sharan (2005), ‘Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies’

<sup>299</sup> Sundar, N. (2005). ‘Custom’ and ‘Democracy’ in Jharkhand. *Economic and Political Weekly*, 4430-4434.

<sup>300</sup> <http://latehar.in/jg/> (Accessed 28 February 2016)

gram sabha<sup>301</sup>. During interaction with the Circle Officer of Manika block, the researchers were informed that PESA does not apply in the area<sup>302</sup>. There is a conflict between the traditional system, seen by many as feudal and anachronistic, pitted against the lack of faith in an alternative model<sup>303</sup>.

#### 4.4 Forest land and the Forest Rights Act, 2006

Forests, forming almost a third (29.45 per cent) of Jharkhand's geographical area<sup>304</sup>, are one of the central bones of contention between the tribals and the State and has been the central theme of historical revolts, from the Birsa Munda movement, to the Jangal Kato Andolan in Kolhan in 1970s, to the movement for Jharkhand statehood in 1990s. Several laws have been used from the colonial times continuing into independent India for forceful and coercive taking over of the forest lands in the Jharkhand region, such as the Indian Forests Act 1927 (which forms the legal foundation of all forest ownership, use and management in India), the Private Protected Forests Act of 1947 and the Bihar land Reforms Act of 1950.

Several circulars have been issued from 1990s onwards ordering the eviction of "encroachers" from forest land<sup>305</sup>. After the Supreme Court interim order<sup>306</sup> on the Godavarman case<sup>307</sup> in 2001, the regularizations of forest encroachments were further restrained. During the interaction with the officials at Latehar district, it was revealed that the cut-off date after which encroachment will be considered illegal is 31<sup>st</sup> December 2005<sup>308</sup>.

Joint Forest Management, a model of community ownership of tribal land that was started in Harda, Madhya Pradesh<sup>309</sup>, was introduced in Bihar in 1990s and re-

<sup>301</sup>Government of Jharkhand counsel submission in Rajmahal Pahad Bachao Andolan v Union of India, WP 6348 of 2003

<sup>302</sup> Interaction of researchers with SDM (Latehar district), CO (Manika Block), BDO (Manika Block), and Patwari (Manika Block) dated 18 January 2016 at Block Office, Manika.

<sup>303</sup>Sundar (2005), "Custom' and 'Democracy' in Jharkhand"

<sup>304</sup>Forest Survey of India (2013), 'State of Forest Report', Ministry of Environment, Forests and Climate Change, Government of India, available here: [http://fsi.nic.in/cover\\_2013/sfr\\_forest\\_cover.pdf](http://fsi.nic.in/cover_2013/sfr_forest_cover.pdf) (Accessed 12 February 2016)

<sup>305</sup> Vasan (2005), 'In the Name of Law: Legality, Illegality and Practice in Jharkhand Forests'

<sup>306</sup>IA No. 703 in WP No. 202/95, November 23, 2001

<sup>307</sup> TN Godavarman Thirumulpad v Union of India & Ors, Writ Petition (civil) 202 of 1995

<sup>308</sup>Interaction of researchers with SDM (Latehar district), CO (Manika Block), BDO (Manika Block), and Patwari (Manika Block) dated 18 January 2016.

<sup>309</sup> Some early experiments of participatory forest management were carried out in the Harda division of Madhya Pradesh in the late 1980s. The Madhya Pradesh Joint Forest Management resolution was issued first in 1991, and has been amended since. Since 1990, a nation-wide programme of Joint Forest Management has been initiated in India. Source:

introduced in Jharkhand in 2001. While the execution of this model has also been critiqued by many but Vasan (2005) holds that community forest management in Jharkhand is thriving in spaces outside of law, since the forest law and policy fails to provide a sense of ownership to the resource that is essential for a stake in its sustainability<sup>310</sup>.

#### 4.5 Restoration of alienated land

One of the most important steps in the direction for restoration of illegally alienated land to individuals is the Scheduled Area Regulation (SAR) 1969. It provides for the setting up of SAR courts to expedite the process of restoration. However, as Sharan (2005) notes, SAR court for the restoration of tribal land has been functioning in a most unsatisfactory manner resulting in the continued alienation of land. The courts have become centers of corruption and function mainly to legalise earlier illegally alienated land through collusive restoration suits. The compensation is brokered by the court itself, as was also noted by the researchers in the field. In identifying the “substantial structure” that makes the land nonagricultural, the courts accept oral testimony and rarely order further investigation. Demands for restoration are rejected on very small and flimsy grounds like the discrepancy between the measurement of disputed land in the petition and that stated in the records, lack of records, etc. Even if the orders for restoration are passed, it takes a long time before the land is actually restored. Another major problem has been that the records have been deliberately destroyed<sup>311</sup>. After 1969, the increased regularization of illegally alienated land has been primarily through the SAR courts, the very institutions designed to check the problem. In the recent times, the increased inefficiency of the SAR courts has caused the government to suggest the dismantling of the courts<sup>312</sup>.

Up to 2001-02, 60,464 cases for restoration involving 85,777.22 acres of land were filed out of which 34,608 cases were upheld involving 46,797.36 acres of land and the rest were rejected. The possession of land could be given only in 21,445 cases involving 29,829.7 acres of land<sup>313</sup>.

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<http://www.geog.cam.ac.uk/research/projects/harda/reports/B10-PolicyPaper1.pdf> (Accessed 30 March 2016)

<sup>310</sup> Vasan (2005), 'In the Name of Law: Legality, Illegality and Practice in Jharkhand Forests'

<sup>311</sup>Sharan (2005), 'Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies'

<sup>312</sup> CM Fiat to Shut Down the SAR Courts. (2015, December 3). *The Pioneer*. Retrieved February 8, 2016, from <http://ranchiexpress.com/291166>

<sup>313</sup>Sharan (2005), 'Alienation and restoration of Tribal Land in Jharkhand: Current Issues and possible Strategies'

The provision for restoration in the CNT Act is given under Section 46(4) and Section 71A of the Act but the former provision has a 3 year limitation within which a complaint can be filed to the Deputy Collector.

## 5. Recommendations and conclusion

A study of the two villages in Latehar district of Jharkhand brings to the fore the issues faced by adivasis in their ownership of land. The alienation of land here has taken place mostly as a result of upper-caste dominance and impoverishment amongst tribal societies. Despite a history of resistance for land rights and legal provisions to that effect, the actual ownership of land amongst tribals has been on a decline.

As has been noted above, the implementation of land laws in the state, and particularly in the region selected for the study, has been extremely poor. Secondary data as well as anecdotal evidence points to the fact that the CNT Act, although a landmark act at the time of its creation, has been progressively diluted over the years and its implementation has been further hampered through faulty survey settlements. The Forest Rights Act has been seen to have a negative impact on the tribals, and its provisions are regularly used against tribal use of forest lands. PESA, despite a decade of its existence, is barely in existence in the villages and even the high-level officials are unaware of its provisions. Similarly, the sole law for restoration of land, the Scheduled Area Regulation 1969, has been so poorly implemented that it is being considered for revocation.

The data as revealed through this study for the state of Jharkhand has its limitations since several comparisons based on present day record of rights could not be done. As the record of rights does not document the caste or tribe of the owner, the PLS process and the comparison with cadastral and revisional surveys is not wholly reflective of the current scenario. Therefore, most of the data for Jharkhand is based on the survey and the in-depth interviews held with several key stakeholders. In this process, some stark issues that emerged, and require consideration by policy-makers are as follows:

- The revisional surveys need to be carried out in a proper and impartial manner, such that would not adversely impact the rights of tribals. The documentation of land rights as well as common lands has to be done in the true spirit of the law. Non-preservation of important documents such as the cadastral surveys for several villages in Latehar, is itself an issue worth noting.
- PESA needs to be properly implemented and its provisions need to be fully understood by the officials as well as by the adivasi populations.

- The restoration process needs to be made more effective
- There needs to be better advocacy of the rights of tribals amongst the tribal groups. Several other important aspects of their lives which may directly relate to a condition for the alienation of land, such as impoverishment and livelihood, also need to be attended to. For instance, in the villages Lanka and Kope, simply the installation of a hand pump in the village was considered to be the biggest problem faced by several villagers at the time.
- Tribal women's rights on land is an extremely ignored aspect of the issue, that is often shrouded under the claim that inheritance rights for women would accelerate the process of alienation of adivasi land. In the *Madhu Kishwar* case<sup>314</sup>, the Supreme Court held that the demand for their rights should arise from within the communities themselves. However, field experience shows the need for a wider debate on the issue. Two suggestions, as enumerated by Sharan (2005) are:
  - A number of incidences have been reported when the land was alienated without the knowledge of the female members of the family. When the family becomes landless, women and children have to bear the brunt. The joint ownership of wife and husband on land can be made statutory to prevent such alienation.
  - Traditionally, widows have a right to use the land for maintenance during their lifetime but after their death, in the case of childless widows it passes to the nearest male agnates. In some cases it has been reported that the heirs connive with the local 'ojhas' and declare the widows witches, sometimes leading to a physical elimination. To prevent this, a clause should be added that in case of death of a childless widow the property be vested with the community who will distribute it to the landless in the village. As the direct beneficiary of such deaths cannot be predetermined, the dangers of physical elimination would be reduced.

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<sup>314</sup>*Madhu Kishwar and others v The State of Bihar and others (AIR 1996 5 SCC 125)*

## **Chapter 8**

## **Gujarat**

## Introduction

Gujarat was one of the princely ruled states, where Surat district was coming under the Vadodara state. According to 2011 census, tribals comprise of 14.9 percent in Gujarat with literacy rate of 68 percent. Gujarat has the fifth largest tribal population in the country according to the Statistical Profile of Scheduled Tribes 2013 (8.55 percent of the national tribal population)<sup>315</sup>. The tribals<sup>316</sup> are concentrated in the 14 eastern districts of the state, numbering around 89.2 lakh people (48 talukas, 15 pockets and 4 clusters). The area covered by tribals is 18 percent of the total state area spread across 5884 villages. In 5 districts of Gujarat, more than 50 percent of the total population is tribal. The Bhils comprise most of the tribal population in Gujarat (46 percent), which is also the most populous tribe in the country (37.7 percent of total tribal population of India, followed by Gonds who comprise 35.5 percent<sup>317</sup>). Other than Bhils Gujarat is inhabited by tribes namely Halpatis, Dodhias, Rathawas, Naikdas, Gamits, Koknas, Chaudhris, Varlis, Dhankas, Patelias etc.

### 1.1 District and villages chosen

The researchers selected Tapi district to look at the influence of stone quarry industry and brick factories and the pattern in which they alienated tribals from their land. The researchers also wanted to delve into the issue of witch-hunting often reportedly used as an excuse for single women to leave the village so that someone from the village could take possession of her land.

For selecting villages for in-depth studies we were dependent on the local partner, and the reasons for the choice of villages in Gujarat are as follows:

- 1) Ozar village – which is away from Songarh block headquarter and has not seen much alienation of land. (Explanation and reasons given in following paragraph)

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<sup>315</sup>Retrieved from

<http://tribal.nic.in/WriteReadData/userfiles/file/Statistics/StatisticalProfileofSTs2013.pdf>

<sup>316</sup>Dunn, D. (n.d.). 12(1), 53-70. Retrieved from <http://gujecostat.gujarat.gov.in/wp-content/uploads/CMGE/GujInFigures.pdf>

<sup>317</sup>Census of India 2011

2) Pokhran– Pokhran is the village where massive level land alienation has taken place due to land grab and stone quarry mining.

## 2. Extent of tribal land alienation

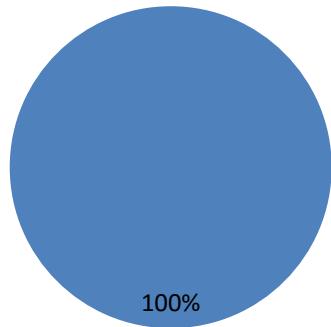
The Gujarat government does not record or mention the caste and community on the land record. Neither the old document nor the present document shows single person's caste or community which they belong from. What we did was we compared the present land record with the present possession which helped to get some extent of land alienation and shown differences between ownership and possession. The same technique has been used for both villages to analyze extent of tribal land alienation. Along with this we have the participatory land survey data which shows the difference between possession and ownership. Since the Tapi district was the part of Surat district and got separated, it's also difficult to map district level extent of land alienation from literature review.

### 2.1 Extent of tribal land alienation in village OZAR<sup>318</sup>

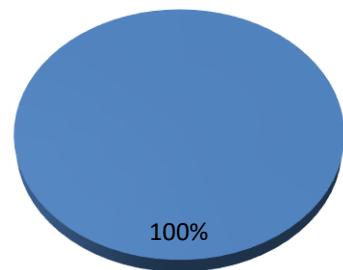
The land alienation in the Ozar village has not been seen through any mode of transaction. Even the chances to transaction of land between tribal to tribal is quite less due to small holding of land within the tribal and low capacity to purchase more plots. The table below shows that the difference between land ownership and land possession in the ozar village

**Table no 1: Total land in ozar      Table no 1.1 possession in present**

**Land posession**



**Land ownership**



<sup>318</sup> The data from PLS ( participatory land survey )

The table above clearly shows that there is no difference between ownership and possession. The villages have most of tribal population where the land alienation has not taken place yet. Both ownership and possession of tribal land is maintained at 100 percent.

**Table no 1.2 : total description of land ( in hectare )**

Tribal land possession	71.07
Non tribal land possession	0.00

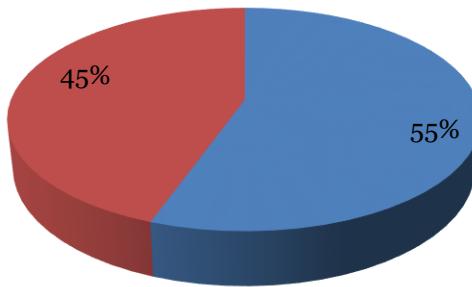
## **2.2 Extent of land alienation in Pokharan village (village no 2 )**

Pokharan is the village where huge level of land alienation of tribal has taken place due to various reasons. The table below gives the understanding about the difference between possession and land ownership.

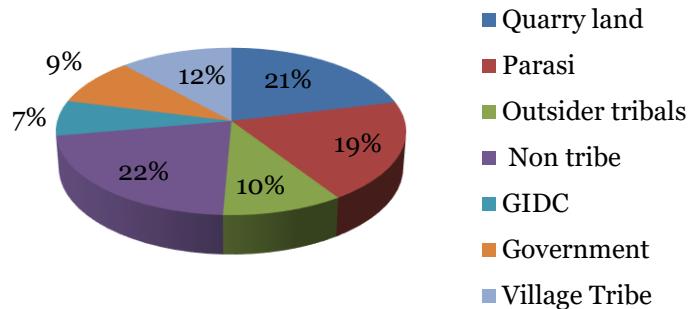
**Table no 1.3 Description of land holding in Pokharan village**

### **Land posession on document**

■ Tribal holding ■ Non holding



The present land record of the Pokharan shows that only 45 percent of land is held by the tribals in the village and rest of land (55 percent) belongs to non tribals already.

**Table no 1 .4 Description of present possession of land in pokharan****Discription of total land holding**

Though the tribals own 45 percent of land in the village, their possess only 22 percent of the land. The difference between the two is a possible mark up which shows the actual incidence of land alienation in the state. Even the land which is possessed by the tribals have been devalued as they cannot produce anything due to heavy mining dust pollution. The table below shows the distribution of land in hectares between different groups in the village.

**Table no 1.5 Hector wise description of land possession of Pokharan**

Quary land	25.3249
Parshi ONLY	48.1773
Outsider tribals	77.0823
Non tribe	106.329
GIDC only	47.5148
Government	28.0485
Village Tribe	27.2231
Outsider non tribe	17.0907
Not found	17.4333

The survey, though usually generates data only as land belonging to a tribal or a non tribal, however since this was a small village, and people knew each other very closely a detailed survey was possible with land acreage being marked out for each group.

### 3. Understanding land alienation in Tapi district

#### 3.1 Land alienation in Ozar

The finding of PLS<sup>319</sup> shows that the land transaction between tribal to non tribal has not happened not even through illegal mode which was cross confirmed in meeting and interviews.

Ozar is mainly tribal dominated village; almost 100 percent population belongs to tribal community. According to house hold survey (conducted by research team) there are 82 households with total population of 411 people. For being 25 km away from the block head quarter, there is no land transaction between non tribal and tribal community inside the village, the reason behind it is not surprising but the question remains if the separation of tribals and non tribals is the only way to protect the tribals.

Since the entire village is tribal dominated (100 percent) with small land holdings, is with the tribal which is also one of the reason found with no land transaction between tribal to non tribal. The clash between tribal communities and also with migrants (those affected by Narmada and Ukai dam projects)is seen clearly for the rights over resources. The clash between the original residents, migrants and forest department had also turned violent three years back.

Manojbhai<sup>320</sup>in his interview said that, some years ago, Ukai and Narmada dam PAP migrated here because government did not paid fare amount and proper rehabilitation to project affected people. Now these people have become residents of Ozar but wood, forest produce and forest land is under pressure. But the local resident thinks that resources will deplete if they are used excessively.

While having conversation with another villager we found that Bhil community is landless in present scenario who were strongest community before independence in this area. Also Ozarvillage has around 20-25 people who belongs to this community are landless.

The village has history of resistance without any movement and Sangathan, Savitriben<sup>321</sup> in her interview said when when Zamindari was abolished, the landlord was not ready to leave land but people from village came together and asked him to handover land, it did happen and Jamindar left village.

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<sup>319</sup>Participatory land survey

<sup>320</sup>Interaction of field researcher with resident of village on 17<sup>th</sup> January ,

<sup>321</sup>Interaction of field researcher with resident of village on 15<sup>th</sup> January ,

The question of why land alienation has not taken place in village: the answer is with villagers. Mangubhai<sup>322</sup> stated, there is no land acquisition and transaction to non tribal, because this village far away from city and do not have basic facility like, electricity, drinking water which is main requirement of stone quarry and companies. Apart from this some of people of village think, in future there might be a land alienation because urbanisation would eventually touch them. Chinubhai<sup>323</sup> stated that though tribals don't own huge patches of land, their social status, culture and life is attached with land. If anyone (broom) has no land then it's get difficult to marry, and status also suffers if one loses land and becomes a daily wage labourer.

The discrimination between tribal are taking new shape around this area, both the Hindu and Christian machinery trying to rope in the tribals under their fold. Most tribals do not follow their original religious practices anymore, and they have been divided on the lines of their beliefs as well. The tribals converted to Christianity avoid eating meat, smoking vidi, and those who do not follow this are discriminated against, including not being allowed in church. The Bhil community faces this more their livelihood is dependent on those who possess land, and must conform to the social norms to get accepted.

The school gives education to all tribal community children since they have no school near by their villages, for the foundation of school and church the tribal community has contributed in cash church members: the amount is fixed by priest. Tribals agree that the the level of education has gone higher, and they feel life is improving because of intervention of the church.

### **3.2 Understanding land alienation in Pokharan village**

Pokharan is a village which is located (Songarh block of Tapi district) near the highway and a small town called Songarh. Pokharan has mixed population (tribal and non tribal) of 94 houses in the village. Where tribal consist of 90 percent of total population and 10 percent of people belong to non tribal community: Tapi district is in border district between Maharashtra and Gujarat. In fact most people here speak Marathi and people from both states migrate here for work.

Geographically Pokhran has few mountains where due to lack of water very few trees remain around the village, which is attracting stone quarry owners to come in, since it is essential for building highways in the area. The village has seen drastic change, in the last 15- 20 years when stone and bricks factory started in the village, where there was no

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<sup>322</sup>Interaction of field researcher with resident of village on 19<sup>th</sup> January , 2015

<sup>323</sup>Interaction of field researcher with resident of village on 20<sup>th</sup> January ,

one to resist this powerful dominant group and people said, quarry owners shut up those who opposed through money or violence.

The presence of missionary organization is also here, which like in Ozar has drastically changed people's lives. Here, unlike Ozar though, there is conflict between the two churches in the village as well, dividing the people. People said, the new church had fewer members, and the priest had proposed merging the churches together, but people do not want the old church to shut down. But few people reportedly vanadalized the old church and assaulted the priest, after which there has been major divide between people in the village.

The priest yields enormous power in the village, and according to some is also involved in land deals in the village, where huge parcels have been sold to stone quarry and Parsi people.

#### 4.1 Process

Most of the land here is grabbed by stone quarry owners and Parsi people and are also then resold to outsiders who want to build farm houses. Romel<sup>324</sup>stated that many of stone quarry has been sold to Parsi people by threatening tribals. He also said most bureaucrats are involved in the sale process.A typical process of tribal land alienation looks like this:

- 1) Convert private ( individual ) land in to government land
- 2) Then convert it into west land
- 3) Then allot it to private industry or whoever wants it

Official procedures make it impossible for tribal to fight any cases against the buyers, and anyone can buy tribal land with the collector's permission. District collector<sup>325</sup> stated in his interview, "Anyone who comes to us for permission of selling land, after verification of certain things (for what, why, what is the livelihood option remaining to the tribal) they are allowed to sell the land to tribal." In addition he saidmany tribals come to office by saying they have to give education to child or need money for healthcare expense, when he speaks to both parties to confirm the reason for sale.

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<sup>324</sup>Interaction of field researcher with leader of sanghatan on 17<sup>th</sup> January ,

<sup>325</sup> Interaction of field researcher with District collector on 18<sup>th</sup> January ,2015

The collector himself said that many of the tribals don't have their land record but still they claimed the right over the land. But Brijeshbhai<sup>326</sup> claimed, village common land were sold off to stone quarry by Sarpanch by converting common land into wasteland; few people have sent application to review this process but collector did not reply even after 3 years.

The PLS and survey conducted saw fear from people about speaking up. While the land records do not mention caste, the people in the village gave castes of those owning lands during PLS.

Manojbhai stated, stone quarry owners threaten and beat people if they don't sold land, also villagers cannot revolt against this because villagers work in stone quarry as daily wage labor. The tribals become dependent on the quarry for work, and those who do not sell ultimately lease out land for 99 years. Nathubhai<sup>327</sup> stated that anyway when tribals lease land for quarrying, cannot reuse the land again for agriculture.

Talathi<sup>328</sup> claims that he does not know exact figure but lot of land has gone to non tribal from tribal through 99 years lease, including to politicians in the area. "Also when law itself keep loop for selling land then powerless and helpless tribe can't argue in front of collector."

The tribals have also faced hardship after a sugar mill shut down after buying sugarcane from farmers and not making due payments. The indebted tribals are moving to Ahmedabad or Surat for work. After going to cities what happens with this people was explained by Dhiraj<sup>329</sup>. He stated, "We not only do not get jobs, it is difficult to find rooms if they come to know we are tribals. People hide their basic identity in search for livelihood."

#### **4.2 Impact of land alienation on tribal**

Apart from the loss of the land due to selling or leasing people also lose crops due to the pollution from mining. Revatiben<sup>330</sup> stated that her (2015) year's crops got destroyed due to dust of stone quarry cement which mixed in air; even land entirely became useless due to dust and water level depletion. A Gramsabha took place with the concern of land loot by brokers and the people sent a letter to the district collector urging not to allow single

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<sup>326</sup>Interaction of field researcher with resident of village on 21<sup>th</sup> January , 2015

<sup>327</sup>Interaction of field researcher with resident of village in FGD on 21<sup>th</sup> January 2015

<sup>328</sup>Interaction of field researcher with Talathi on 17<sup>th</sup> January 2015

<sup>329</sup>Interaction of field researcher with PHD scholar of songarh block on 22<sup>th</sup> January 2015

<sup>330</sup>Interaction of field researcher with resident of village on 22<sup>th</sup> January 2015

transaction in this village but no reply has come from the office. The identity, culture and livelihood of the tribals are under danger today due to the alienation.

## 5. The PESA ACT

“कोई भी कानून हो, या ना हो, आदिवासी के लिए एक ही चीज हैं! ”<sup>331</sup>

This statement was made by Manishaben<sup>332</sup> who is an activist, working with Dalit and tribal issues in Tapi district. She said the bureaucracy was hostile to the tribal since she had raised many issues with them, but remained unheard.

She said apart from a lop sided machinery, Brahmnical groups convert tribalsto Hindu religion in ShbariDham<sup>333</sup>. Along with land, identity and culture and resources are all lost.

Romel Sutariya, also an activist, said that a prevalent practise in South Gujarat was to blame a woman and name her a “witch” once the husband died, so that elderly men in the village or other family members could take her land. This showed how women, especially single women are “particularly vulnerable to alienation from land and livelihood.

### 5.1 Land alienation in Gujarat in wider context with special reference to Tapi

In Tapi district, 84.18 percent of the population consists of tribals. According to the Census of 2011,Tapi district (Gujarat)<sup>334</sup> covers an area of 3434.65 sq. Km bordered by four rivers Tapi, Midoda, Purna and Ambika.It also shares borders with the state of Maharashtra. The newly constituted district (September 2007) has five blocks (taluka): Vyara, Songadh, Uchchal, Nizar and Valod. The current study has based its fieldwork in Songadhtaluka. The district is highly forested and is a major producer of bamboo. The economy of the district is basically dependent on agricultural work and 80 percent of the workers are engaged in this. The population density of the district is the fourth lowest in the state. Less than 10 percent of the population of Tapi district lives in towns while the statistic for urban population across the state of Gujarat is 42.6 percent. The district has

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<sup>331</sup> The existence or absence of laws make no difference to a tribal

<sup>332</sup>Interaction of field researcher with president of women sanghatan wing on 17<sup>th</sup> January 2015

<sup>333</sup>Shabari dham is one of the ashram , located near tapi ,which is also being used for converting tribal in hindu religion.

<sup>334</sup>DISTRICT CENSUS HANDBOOK. (n.d.). Retrieved from

[http://www.censusindia.gov.in/2011census/dchb/2426\\_PART\\_B\\_DCHB\\_TAPI.pdf](http://www.censusindia.gov.in/2011census/dchb/2426_PART_B_DCHB_TAPI.pdf)  
TAPI

the highest sex ratio in the state of Gujarat (1007 females per 1000 males), while the highest in the country has been recorded in Mahe district in Puducherry (1184 females per 1000 males)<sup>335</sup>.

Particularly in Tapi district above 84 percent of the population consists of Scheduled Tribes (mostly Chaudhris, followed by Gamits), which is nearly six times of the percentage tribal population in the state in average. Given this population statistic, it is important to note that only 23.5 percent of the population of the state are cultivators, while 56.5 percent are agricultural labourers. Within Tapi district the tribal population is highest in Vyara taluka (2,15,330) and second highest in Songadh taluka(1,89,311). The average literacy rate of Gujarat is 79.3 percent (national average: 74.4 percent), but among the tribal it is only 62.5 percent<sup>336</sup> (national average: 59.8 percent). Gujarat is also inhabited by some Particularly Vulnerable Tribal Groups like Kotwalias, Kolghas, Kathodis, Siddis, Padhars numbering under 1.5 lakh people, although they are not concentrated in Tapi district. Their main occupations are making bamboo products, animal grazing, collecting and selling forest produce, fishing, casual agricultural labour etc.<sup>337</sup>

Gujarat saw massive tribal land alienation in 1960s to 1980s<sup>338</sup>, when BLRC carried out the survey and settlement process. The Surat and Tapi area used to fall under the Vadodara state where land was distributed to those can pay the tax in cash: this pattern of alienation matches Maharashtra where tribals lost land for not paying cash revenue.

Even during the British rule, Ryotwari system was placed here, but other tax systems also existed where the whole village will have to pay taxes together. In 1938, a Backward

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<sup>335</sup> *Animal Genetic Resources/Ressources Génétiques Animales/Recursos Genéticos Animales* *Anim. Genet. Resour.*, 55, 143. (2014). Retrieved from <http://www.census2011.co.in/facts/highsexratiodistrict.html>

<sup>336</sup> *Tribal Demography in Gujarat*. (n.d.). 6(4). Retrieved from <http://tribal.gujarat.gov.in/tribal-demography-of-gujarat>

<sup>337</sup> Kshatriya, G., Aggarwal, A., Khurana, P., & Huidrom, S. (2011). Haptoglobin polymorphism among the tribal groups of southern Gujarat. *Indian J Hum Genet Indian Journal of Human Genetics*, 17(3), 169. Retrieved from <http://tribal.gujarat.gov.in/particularly-vulnerable-tribal-groups>

<sup>338</sup> Lobo, B. (2011). *Status of adivasi / indigenous people : Gujarat*. Delhi, Delhi: 2011.

Classes Land Protection Act was enacted to protect Adivasis and others by restricting transfers from Adivasis to non-Adivasis, though transfer among Adivasis was allowed.<sup>339</sup>

## 5.2 Tenancy Framework and Reform

The Indian nation-state inherited the British land tenure system which was largely interested in settling and distributing land amongst the Adivasis so as to extract taxes from them (Patel 2011). For this purpose the British had already settled several non-Adivasi farmers in the Adivasi areas along with the migration of moneylenders and businessmen into the areas. Vast section of the Adivasi population was forced to abandon their land to avoid tax or exploitation by the non-Adivasis. Even the right to allot forest land for clearing and cultivation, which earlier lay with the Adivasi headmen was curtailed by the British by 1900 and given over to absentee landlords (Pinto cited in ibid). Sud (2007) critiques the Land to the Tiller movement of the 1930 popularised by the Congress leadership as an attempt to control the feudal zamindari system, while paving the road for capitalist paradigm of growth and efficiency in agriculture. According to her the demands of the landless labourers was not a concern of the movement led by powerful peasant caste groups. It only meant a relative disempowerment of the Rajputs in the state (who were British loyalists) and an elevation of the KanbiPatidars (which was the main Congress constituency in Gujarat at the time).

Although the First Five Year Plan of 1951 ostensibly promoted distributive justice for poverty reduction and planned to restrict tenure and remove ‘impediments between the land and its tiller’ at the legislative level, power to arbitrate on matters of dispute around land remained with landlords and the Office of the Collector of the state. Patel cites that the first decision of dealing with dispute on land lay with the Deputy Collector, and if he gave a decision against the landlord, the latter usually appealed to the Collector or the Special Secretary in charge of land disputes. Being far wealthier, more educated and knowledgeable about laws, Parsis, Patels, Chaudhry landowners appealed in civil courts and provided proof that they were tenants, so that land would be transferred to them, while the actual Adivasi or dalit tenants were reduced to agricultural labourers. They used force to enforce *enmasse* eviction of tenants. Further the government did not allow tenants to take possession of land with standing crops in them, allowing the non-Adivasi landlords to continuously till and grow crops so as to bar transfer. At this time Gujarat was still part of the Bombay state. Land Ceiling Act after the second and third five year

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<sup>339</sup> Lobo, B. (2011). *Status of adivasi / indigenous people : Gujarat*. Delhi, Delhi: 2011.

plans also could not be implemented due to landowners resorting to litigation and dividing their land in family members' names<sup>340</sup>

Even after the division of state, while Maharashtra Restoration of Lands to Scheduled Tribes Act 1974 tried to address the problem of land alienation since the 1950s, the Gujarat government continued to follow the Bombay Land Revenue Code (BLRC) Clause 73, in a faulty and biased manner. One of the ways in which Adivasi land was alienated in Gujarat under BLRC was by invoking power-of-attorney, which involved an Adivasi giving legal powers over his land to another party for a given period of time. It was usually the case that the legal rights were never returned and it could not be proved in court who the land belonged to originally. In many cases the tribals did not have financial means or awareness to fight the case in court. Some money-lenders stopped the implementation of returning the land to the land by claiming that they had lent money to non-Adivasi and showing that no surname was mentioned in 5<sup>th</sup> Schedule. In other cases non-Adivasi land-owners acquired stay orders barring restoration of 12 lakh acres to Adivasi cultivators in Vadodara district alone, in 1969. In some blocks like Naswadi, as much as 75 percent of land has been alienated by such spurious means (Trivedi 1993; Jani and Ganguly 2000).

Sud (2007)<sup>341</sup> argues that even the *garibihatao* (remove poverty) slogan of Indira Gandhi in the 1970s came with the thriving white revolution (dairy cooperatives) and successful launch of green revolution and increased urbanisation in the state of Gujarat. It was the rural middle classes and castes that sent younger members to build careers in agro-industry, agricultural trade and business ventures. The profits were pushed back to buy more land in rural areas. Although the Land Ceiling Amendment Act of 1973 appeared to discourage non-locals and non-agriculturalists from owing land (the amendment was that land can be owned by persons living within 15 km of the agricultural land), in actuality "Gujarat's new urban entrepreneurs", particularly the Patidars, had family in the agricultural landed middle classes, "very much stuck to their *khedut* identity"

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<sup>340</sup> Sud, Nikita. 2007. 'From Land to the Tiller to Land Liberalisation: The Political Economy of Gujarat's Shifting Land Policy', *Economic and Political Weekly* 41(3), pp. 603-637

<sup>341</sup> Sud, Nikita. 2007. 'From Land to the Tiller to Land Liberalisation: The Political Economy of Gujarat's Shifting Land Policy', *Economic and Political Weekly* 41(3), pp. 603-637

(*khedut* means tiller) and were allowed to amass power and wealth by the toppling governments of Gujarat in the 70s. As opposed to the traditional elite (Brahmin-Bania conglomerate) the new entrepreneurs also used the protection of Chimanbhai Patel of Congress, then Chief Minister of Gujarat to veipurchase of agricultural land for non-agricultural purposes and to show profits from agro-industry as income from agriculture, all to evade tax.

Particularly in Surat district, the KhedutSamaj, an association of richer landowners, organised ‘patrol squads’ and the Sardar Sena in 200 villages, for crop protection against redistribution to the landless (locally called Halpatis or Dublas). Legal and illegal firearms were being sold and distributed. By way of pressurizing through the Khedut Samaj the big landlords also refused to pay the paddy levy in 1973, although they were the major beneficiaries of irrigation through the Ukai dam and canal. Efforts to educate the Halpatis by Gandhians had been thwarted in the 20s, and it took decades of pleadings, agitations and strikes in Surat before minimum wages of Rs.3 for an 8-hour-day for agricultural labourers could be legislated in the 60s. Even this was sought to be evaded by bringing in migrant tribal labourers, reducing the Halpatis to minor thievery. This incited the upper castes to employ patrol squads who beat up the Dubla men, raped Dubla women and plundered their houses. Though the Gandhian Brahmin leadership of the Halpati Seva Samaj tried to rein the anger of the lower-castes in the area, violent encounters have taken place<sup>342</sup>. However such pernicious means of pressurizing were adopted by upper-castes across the Eastern tribal of Gujarat<sup>343</sup>

Another way of acquiring tribal lands, which was officially not transferable to non-Adivasis, was by taking them away for ‘public works ‘or declaring agricultural land to be non-agricultural land. After the Gujarat Tenancy Act came into effect in 1977, it was made legal for industries to engage in non-agricultural activity in agricultural land, without even the district collector’s permission. In both cases corporations used the government as a middle-man to acquire the lands at throw-away prices. 51,000 Adivasi tenants lost the opportunity to become owners of land simply because they could not comply with the official procedures of attending court proceedings or non-payment of

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<sup>342</sup>Landed and Landless in Surat District: Virtual Class War. (1974-77). *EPW*. Retrieved February 25, 2016.

<sup>343</sup> Lobo, Lancy. 1994. ‘Suppression of ValiaTribals’, *Economic and Political Weekly* 29(3), pp. 82-83

cash on time. And even though the state got back 24 lakh hectares of land from big landholders, these were not distributed effectively among dalits and Adivasis (Patel 2011). In the cases where Adivasis did get ownership, the area of land granted was far lower among Adivasis than dalits. Dividing land among family members to retain ownership, avoid imposition of Land Ceiling Act, while continuing tenancy of Adivasis has commonly been observed (Jani and Ganguly 2000).

Backward caste leader of the Congress Madhavsinh Solanki was sworn in as Chief Minister in the 1980, after several spells of unstable ministries and intermittent President's rule in the 70s. This government tried to reverse the Land Ceiling Amendment Act of 1973 so as to curb big landlords from retaining ownership by dividing up their land among family members. As many as 25,000 cases were reopened, promising to redistribute land among Dalits and Adivasis. But powerful sections filed writ petitions in the High Court to stall the perusal of all these cases and halt Solanki's new land redistribution initiative. Even District Collectors and administrative officials spread hysteria that if the cases were not withdrawn, class war would break out in Gujarat. 1981 had already seen anti-Dalit riots in the state when the government tried to implement reservations in medical schools and other institutes. And finally all cases of evasion of Land Ceiling Act were given up by 1983. Jinanbhai Darji Committee's Recommendations 1984 of making landowners surrender land to the real cultivators was not even tabled. Even attempts to rehabilitate dalit and Adivasi cultivators in the Hathmati river basin, which had been evacuated for dam construction in the 60s failed under pressure from the upper castes. In its final year the Solanki government had to bear the brunt of the pan-Gujarat anti-reservation riots initiated by the upper castes where more than 200 were killed<sup>344</sup>

His successor from the Congress, Amarsinh Chaudhry, Gujarat's first tribal Chief Minister, further succumbed to the pressures of the Janata-Dal-BJP opposition 1985 onwards. The alarming loosening of the land laws in the late-80s allowing industrialists, mercantile groups, mining companies to buy land easily from the drought-affected farmers at dirt-cheap prices, came not at a time when the upper-castes were the majority in the Legislative Assembly in Gujarat, but when ostensibly Congress representatives of

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<sup>344</sup> Sud, Nikita. 2007. 'From Land to the Tiller to Land Liberalisation: The Political Economy of Gujarat's Shifting Land Policy', *Economic and Political Weekly* 41(3), pp. 603-637

the less privileged sections (KHAM: Kshatriya-Harijan-Adivasi-Muslim) internalized and implemented the agenda of the elite. Even the ceiling on sale or purchase of land within 8Km of one's residence was sought to be relaxed by Congress (finally fully implemented by BJP in 1995) and Gujarat "was well on its way to the liberalization of land" (ibid).

### 5.3 Other Factors in Tribal Land Alienation

In addition to faulty legal framework in relation to land and changing politico-economic scenario, wealth determining village level governance, lackadaisical bureaucratic system and control and power of money-lenders have failed to ameliorate poverty of the tribals in general. False cases were filed against Adivasi tenants by politically powerful landowners to evict them. There is no financial assistance or means of irrigation for the improvement of the quality of much of the land, which then lie fallow. These farmlands then are declared as pastures by local panchayat for the upper classes without any legalities as such. The agricultural land then came to be used as grasslands for supplying to the lucrative Bombay fodder trade. Moneylenders' exorbitant rates of interests lead Adivasis to become bonded labour in their own land. Poor Adivasis were also incapable of buying cattle or if they did, could not feed them enough to earn profit by selling their milk. Milk cooperatives among the adivasis also have to deal with a myriad social relations with money-lenders, upper castes, land available for grazing, technology for storing or cooling milk etc<sup>345</sup>. and is dependent upon agriculture in some way or other. The introduction of distilled liquor in tribal areas particularly by Parsis, introduced the notion of credit where earlier there was a subsistence economy with not much surplus and no concept of money.

In Surat district (which was divided into Tapi and Surat districts in 2007) tribal land alienation took place before 1961, before the law to protect tenants even came into effect. As late as the 1980s, the talatis (village panchayat) did not reach the Adivasi tenants' doorsteps to record the land they owned or were forced to become tenants in. In this district which has high concentration of tribals, between 1981 and 1990, 6330 hectares of forest land was transferred to Development Projects, causing massive displacement and

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<sup>345</sup> Pandey, Vikash and Akhileshwar Pathak. 1997. 'Peasants, Subsistence and the Dairy Co-operative in Dry Land: A Fragile Existence', *Economic and Political Weekly* 32(39), pp. A98-A105

loss of land and forest resource. One example of this was the Central Pulp Mill in Songadhtaluka, which was given a lease to extract bamboo from the Shoolpaneshwar Wildlife Sanctuary for four decades (1960-2000), while displacing tribals and restricting their use of the forest. As of 2007, in Vyarataluka (now in Tapi district) alone 575 acres of land was declared surplus but none was redistributed to Adivasis. Although during the Land to the Tiller Reforms in 1932, 50 percent of the land was given back to Adivasis in the district, there are instances where such transfers remained only on paper. The Vyarataluka of Tapi district also houses the Kakrapar Atomic Power Station, for which 100 hectares of land was acquired. Additionally an area of 15 sq.km. surrounding the plant may be affected harmfully by the plant in case of any leakage. While a few families got monetary compensation, rehabilitation was not attempted at all. Faulty policies have forced Adivasis to migrate to urban areas to work in informal sectors which have further alienated them from their land.

The restriction on traditional use and sale of forest goods and low opportunities in the public works that have come up after submerging villages have further worsened the condition of tribal communities. According to Patel<sup>346</sup> (2011) the Forest Department of Gujarat has historically encroached onto cultivated land of the Adivasis to expand their area of control. At the time of state formation of Gujarat alone this land encroached upon increased by 4 lakh hectares. In about 45 percent of the land under the control of the Forest Department of Gujarat 80 percent of the state's tribal population resides. It is the Forest Department that has engaged in massive and systematic contract cutting of trees from the 1960s to 80s, while depriving tribals one of their main means of livelihood. The Forest Department housed Adivasi workers in 'forest villages' to harvest timber while never giving them ownership of land in many cases, nor agricultural loans. In these villages there is no panchayat and development schemes of the government (like grid electricity) do not apply. In some cases the Revenue Department collects taxes and even fines for trespassing from the Adivasis cultivating parts of the forest land, yet they have no land deeds.

Grassroot level movements and agitations gave some respite to these tribals cultivating forest lands in the 1990s in the form of giving them formal land rights over about 40,000 hectares of land, or compensation in the form of regularised jobs in projects coming up

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<sup>346</sup> Patel, Shivani A. 2011. *Status of Adivasi/Indigenous Peoples Land Series 1: Gujarat*. The Other Media and Aakar, New Delhi

in the area. But the clampdown of the state on such movements also became severe, and by 2002 the Inspector General of Forests threatened mass evictions. 14,417 hectares of forest ‘encroachments’ were evicted by 2004 by order of the Inspector General of Forests, and even standing crops worth 4.7 lakh rupees were destroyed to force evictions in the entire Eastern tribal belt. But the national solidarity of movements of forest dwellers and tribals, as well as the AdivasiMahasabha of Gujarat were able to force the passage of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Parliament. The AdivasiMahasabha is trying to ensure that the Act is implemented in Gujarat (Patel<sup>347</sup> 2011).

#### 5.4 State specific laws

Currently, there is a separate law known as the Gujarat Panchayat Amendment Act, 1998 but there is no mention of alienation of tribal land there but there is a provision for transfers in the Bombay Land Revenue Code, 1879 which was amended into the Gujarat Land Revenue Code 1972. Section 73A of the Bombay Land Revenue Code as applicable to Gujarat contains the following provisions. Section of 73A: Restricts the occupant’s right of transfer by making transfers liable to state sanction. In practice, land transfers between Adivasis and non-Adivasis were particularly marked as suspect. 73AA: Prohibits land transfer from Adivasis to Adivasis from the date of notification into force of the amendment. Land alienation from an Adivasi to another Adivasi that took place between 1960 and 1980 was to be upheld. This is in contrast to other states, where such transfers were retroactively cancelled. 73AD: Bars registration of documents in any cases of land transfer by Adivasi occupants without the sanction of the collector. The most interesting thing is 73AB: Allows Adivasi occupants to mortgage their lands to the state government or certain institutions in order to receive loans. Such Adivasi lands can be legally auctioned by credit cooperative societies and banks to recover loans. Which ahead lead caused alienation of tribal. However the section 73 AC given decision power to collector which mostly goes in behalf of non tribal

In the face of the toothlessness of the Tribal Advisory Committee (TAC) in Gujarat and the apathy of the Governor’s office to look into the welfare of tribals in 5<sup>th</sup> Schedule states, the Panchayats (Extension to Scheduled Areas Act) (PESA) 1996 was enacted at

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<sup>347</sup> Patel, Shivani A. 2011. *Status of Adivasi/Indigenous Peoples Land Series 1: Gujarat*. The Other Media and Aakar, New Delhi

the national level. This Act tried to empower the Gram Sabhas and Panchayat to take decisions regarding prevention of land alienation, sale of intoxicants and money lending, hasten restoration of unlawfully alienated land, give control of village markets, water resources, development of roads, schools etc. to the local communities. However when this Act was launched in Gujarat some blatant gaps were noticed. For example, Parmareta<sup>348</sup> notices that the state did not provide for the Gram Sabhas to take decisions on mining in the Scheduled areas, and remains silent about the control of village markets. The law only provides for projects to be undertaken in consultation with the panchayat and not with its consent. The law is also not clear about tribal villages inside forests, or collection of minor forest produce. Therefore exploitation is unremitting in these areas, although in some villages in the Dangs district tribals have organised to force the implementation several laws for safeguarding of their rights in the late 90s and promoting self-rule (ibid). Protests against non-implementation of PESA have come to the fore in Tapi district as well, in the face of indiscriminate mining and pollution of river Purna Shimali<sup>349</sup>

Both articles observe a confused state of working between the TAC, the BDO's office, Gram Sabha, the Governor's office with the result that the Act has jeopardised accountability of people-centric governance and perpetuated state's control. Both observe extremely low awareness about the political and administrative provisions of the Act in the state. There is low participation in Gram Sabhas enforced by entrenched caste and gender dominance and continued alienation and deprivation of the already disempowered. Parma rectal<sup>350</sup> points out that elected representatives like MPs and MLAs manipulate the decisions of the Gram Sabhas in the block or district levels which is still out of reach of the people. There is no transparency or coordination between

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<sup>348</sup> Parmar, Anita, AnkurBaruah, BipinParmar, Franklin Christian, SheetalShukla and VArshaGanguly. 2007. 'Chapter 3: Panchayat Raj and PESA in Gujarat', in *Shaping of Tribal Identity and Concept of Self-Rule in Gujarat*. St. Xavier's Non-Formal Education Society, Ahmedabad

<sup>349</sup> Shimali, Ashok. 2013. 'Anti-mining movement picks up in South Gujarat, tribals demand early implementation of PESA provisions', <https://kractivist.wordpress.com/2013/04/27/gujarat-tribals-demand-implementation-of-pesa/>

<sup>350</sup> IBID

health officers, Anganvadi worker, Sarpanches, DRDOs, social welfare officers etc. Surveys in the region shed light on rampant contractor raj (ibid), encouraging entry of non-tribal in corrupt deals and misallocation of funds for projects. Joshi<sup>351</sup> argues based on a survey in 11 villages in Gujarat (4 in Tapi) that even among the issues discussed in the Gram Panchayat, land ownership or transfer, extraction of minerals, cultivation, forest produce, migration etc. never feature. The bodies remain implementing bodies of development schemes decided from above, like roads, cleanliness, toilets, schools, electricity, health officers etc.

## 6. Political movements against land alienation

South Gujarat which has seen religious movements and had seen ban on meat and liquor, has no strong movement against the land grab. However, there are exceptions like the Dalit–Adivasi Kisan Morcha has been continuously fighting for land grabbing and other issues of tribal farmer. But this movement faces violence and false cases from administration as well political parties who don't want them to work in their area. Though the movement has people's support, cash crunch is a major impediment and often help people to fight legally with the collector or court to get back land. Activists like Romel Sutariya and Manishaben have been continually fighting for getting compensation for tribal and other farmers but political promises of compensation are often not kept.

## 7. Conclusion

There is immense mistrust for court and district administration and judiciary and people are scared raising voices against the administration, other than when they are back by strong movements. Tribals, dependent for daily labour on the buyer of their land, become labourers in their own land. Unless the laws become stronger, and the administration pro active and politically willing to stop such transfers, tribals will continue to lose their livelihood.

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<sup>351</sup> Joshi, Satyakam. 1999. 'Tribals, Missionaries and Sadhus: Understanding Violence in the Dangs', *Economic and Political Weekly* 34(37), pp. 2667-75

## **Chapter 9**

### **Tripura**

## Introduction

The present research project largely concerned itself with Fifth Schedule states and the processes and extent of tribal land alienation there. However, the research team decided to include one Sixth Schedule state from Northeast India, to understand if the more protective legislative provisions provided under the ambit of the Sixth Schedule help prevent the people from Scheduled Tribes there from being alienated from their land.

The team visited West Tripura district in Tripura, in which the capital city of Agartala is located. The Scheduled Tribe population comprises 31.8 per cent of the population of the state, and belong to the 'Tripuri' or 'Borok' community said to exist continuously since the first century AD. Though the community has divided into multiple sub clans, they majorly speak the language Kokborok, the second official language of Tripura state.

## 2. Historical Context

### 2.1 Early immigration and land alienation

The original inhabitants of Tripura have been relegated to the peripheries of the state by large-scale immigration of non-tribals, especially Bengalis from West Bengal and Bangladesh. This is a unique state, where the number of immigrants have over the years has come to outnumber the original inhabitants of the area.<sup>352</sup>

This settling of the immigrants must not be mistaken as a recent phenomenon. The Borok community did not practise settled agriculture, and did not have private property rights. 'Land was held collectively by the community and the rights enjoyed by an individual tribal over a particular piece of land on which '*jhuming*' or shifting cultivation, the mainstay of the tribals, was practised was neither permanent nor heritable or transferable.'<sup>353</sup> Since the Borok had few needs, their own production took care of their consumption, and transfer and sale of land was not practised.

However, the Maharajas (Kings) of Tripura started encouraging settled agriculture to enable a demand for more revenue, and by the end of the nineteenth century they encouraged people from Bengal to come and settle in Tripura. This could be seen as the beginning of the process of tribal land alienation in the state.

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<sup>352</sup> Debbarma, K. Politics of land alienation and problems of its restoration in Tripura.

<sup>353</sup> Das Gupta, M. (1991). Land Alienation among Tripura Tribals. *Economic and Political Weekly*, 2113-2118.

“Since most of the tribals did not have any use for their plain lands, these lands, it is believed, were often given away to others interested in settled cultivation. There is a probability that this class of people included not only the immigrant Bengalis but also a handful of tribals who were adventurous enough to take to settled cultivation and needed plain lands for the purpose of carrying on plain land cultivation.”<sup>354</sup>

But with the number of tribespeople growing in the state, and influence of the ‘superior’ economy and culture of the non-tribal immigrants, the demands of the original inhabitants could not be met solely by *jhum* cultivation. This gave rise to an increasing culture of money-lending, in which Borok people mortgaged their land (plain land of little use for shifting cultivation but of use to the immigrant for settled agriculture) to satisfy their consumer demands. Ensuing debt traps increased the phenomenon of alienation to begin with. The early mode of land alienation around this time has been summed up as follows: “The resume of the descriptive studies on the alienation of tribal lands makes it clear that the cause of land alienation is the gap between the consumption and earnings of the tribals and the mode of land alienation of the tribals is supposedly through the moneylenders.”<sup>355</sup>

## 2.2 Land alienation after merging with India

Tripura merged with the Indian Union on 15 March 1949. It became a territorial council in 1956, a Union territory in 1963 and a state in 1972. The Indian government policy of not effectively controlling immigration in the state meant that the population increased 20 times in the decade after Partition.<sup>356</sup> Between 1947 and 1971, the total number of registered refugees was more than 6 lakh, thus endangering the livelihoods and cultural survival of the tribes people even further.

## 3. Legal framework in Tripura

### 3.1 Legal provisions

The Sixth Schedule gives powers of legislation and execution through Autonomous Regional Councils (ARC) and Autonomous District Councils (ADC), while under the Fifth Schedule, there is only provision for a Tribal Advisory Council in each State. As the name suggests, in the latter, the council has more advisory powers, so that the Governor

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<sup>354</sup> Ibid

<sup>355</sup> Ibid

<sup>356</sup> Misra, Babi Prasanna (1976). Socio Economic Adjustments of Tribals

may decide to take the advice of the advisory council in making laws or giving notifications, but there is no binding requirement to do so. In Tripura, on the other hand, the ADC had to approve every transfer of land from tribal to non-tribal people. Under the Sixth Schedule, though the Governor announces what falls under Scheduled areas, the District and Regional councils are empowered with administrative powers. The ADC is empowered to make legislations as well, including on tribal land alienation, though all laws require the assent of the Governor. The ADC has 30 members, out of which 4 can be nominated by the Governor and 26 are elected. While one state can have more than one council, Tripura has just one ADC. No regional council has been made in Tripura.

To induce the Borok into settled agriculture, the king of Tripura in the 1920s and 30s made Reserved Areas in the state in which huge tracts of wetlands were reserved for them. However, in 1960 the Tripura Territorial Council Administration brought out Tripura Land Reforms and Land Revenue Act 1960 (TLR & LR Act 1960) which abolished the reservation. TLR & LR Act 1960 vested the ownership of all the land of Tripura in the state. Section 187 of the act says, "Special provision regarding Scheduled Tribes: No transfer of land by a person who is a member of the Scheduled Tribes shall be valid unless a) the transfer is to another member of the Scheduled Tribes; or b) where the transfer is to a person who is not a member of any such tribe, it is made with the previous permission in writing of the Collector; or c) the transfer is by way of mortgages to a co-operative society.<sup>357</sup> Unlike legal provisions in any Fifth Schedule state we have seen, the Act also in its Rule 215 (1961) puts in a clause whereby the Collector must check for the following before allowing any transaction: a) Inquire whether the member of the Scheduled Tribe can afford to meet his wants without transferring the land. b) Inquire whether after the transfer, the transferor will be left with agricultural land not less than the size of a family holding. c) Obtain the recommendation of the District Tribal Advisory Committee in all cases after apprising the Committee of the result of the enquiry.

If any non-tribal member occupies tribal land through illegal means, it is punishable by imprisonment of up to two years, or fine of Rs 3000, or both. "The clauses a and b of Sub-Section 3 of Section 187 of said Act says, restoration can be possible. In such case, a petition shall have to be filed u/s 187 of the TLR & LR Act to the Collector or authorized

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<sup>357</sup> Indian Kanoon. <https://indiankanoon.org/doc/481917/> Accessed on 28th March, 2016

Revenue Officer. The Revenue Officer will draw up proceeding, hear the parties & dispose of the case as per merit.”<sup>358</sup>

### 3.2 Implementation of law

The Tribal Welfare Committee, along with the Collector, has immense hold over allowing transactions between tribal and non-tribal people. However, as a highly placed officer in the Tribal Welfare Department in West Tripura district—who is also a member of the Tribal Advisory Committee looking after sale of land—told us, he had been working in the department for several years, but has never found a relevant document explaining the criterion to allow sale or transfer of land in the first place. He said, “We do not say no for transfers or sale. The tribals need the money urgently for healthcare or other spending. Why should we stop such sale? If we have doubt we send the case back to the revenue officer to check, after which we give our assent.”

Legal transfers are rare in West Tripura district. However requests for sale or transfer are usually not denied. As our enquiry with the Tribal Welfare Department showed, in the past 10 years, all 74 applications placed before the advisory committee have been approved.

**Table 1: Number of applications and number of successful applications to the Tribal Advisory Committee (TAC) for permission to sell tribal land**

	<b>Total number of cases placed before TAC for sale permission (tribe to non-tribe)</b>	<b>Number of applications approved by the TAC</b>
<b>2006-7</b>	<b>5</b>	<b>5</b>
<b>2007-8</b>	<b>5</b>	<b>5</b>
<b>2008-9</b>	<b>6</b>	<b>6</b>

<sup>358</sup> Land alienation. Tripura annex.

[http://www.ncst.gov.in/sites/default/files/proceedings\\_of\\_review/Tripura\\_annex2316219131.pdf](http://www.ncst.gov.in/sites/default/files/proceedings_of_review/Tripura_annex2316219131.pdf)  
Accessed on 28th March 2016

<b>2009-10</b>	<b>17</b>	<b>17</b>
<b>2010-11</b>	<b>12</b>	<b>12</b>
<b>2011-12</b>	<b>2</b>	<b>2</b>
<b>2012-13</b>	<b>9</b>	<b>9</b>
<b>2013-14</b>	<b>1</b>	<b>1</b>
<b>2014-15</b>	<b>8</b>	<b>8</b>
<b>2015-16</b>	<b>9</b>	<b>9</b>
<b>Total</b>	<b>74</b>	<b>74</b>

The total 74 cases constitute 52.2956 acres of land transferred from tribal to non-tribal people with the permission of the Advisory Committee during the period 2006 to 2016. Apart from such legal transfers, *benami* transfers also continue in the state. Though recent research is difficult to find, a study conducted by the Directorate of Tribal Research in 1974 showed that in the years 1965 and 1972, Boroks gave up most parts of their land either by selling or by leasing, due to extreme poverty as a result of drought.<sup>359</sup>

### **3.2.1 Maintenance of Land records**

The block selected was the study was Mohanpur; being closest to Agartala, the partner and the researchers decided to see if land alienation was significant due to immigration. The reason why research on *benami* transfer through our methodology is difficult to gauge, even if one gets hold of land records, is the way in which records are maintained in the state. Even if one gets hold of the records, caste is not mentioned in the records, which makes it difficult to differentiate between tribal and non-tribal people. For our research, the Director of the Land Survey and Settlement office refused to provide any land records whatsoever, despite the Collector's nod.

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<sup>359</sup> Government of Tripura, Bulletin of Directorate of Tribal Research (1974). *Indebtedness and Land Alienation Survey of Tribal Family under Mohanpur Block*, Vol 1, Part I, II and III.

The government has made land records available online now, however, since the old documents are not available easily, any loss of tribal land or details of any transactions are almost impossible to discover. One tribal in a village we visited, for example, had filed an RTI asking for the details about transactions of his land, since in present records the land is in the name of a Bengali. The SDO office replied that the concerned documents of transaction had been misplaced.

The second major problem of comparing data across villages is the sheer size of the units in which land records are maintained. The land record is maintained at the level of a *Mauja*, which has several Autonomous District Council (ADC) villages under it. An ADC village in turn comprises several *Paras* which have 100-150 households in them. The land records comprise of 5000-7000 Record of rights for each *Mauja*. Since the records are maintained alphabetically, there is no way to differentiate among ADC villages. The land record processing is therefore a mammoth task and RTI charges of Rs 4 per page also make it very expensive for research to be conducted, even if the Survey-Settlement office agreed to provide such data.

The survey process in the villages was also not welcomed by most: there was suspicion and fear of outsiders, especially since one researcher was Bengali-speaking, and rumours soon spread that the survey was being done on behalf of a private company. In the area where the study took place, researchers believe the people perceive land acquisition as a much bigger threat to tribal land ownership than individual alienation. People in Bhagwan Chaudhury ADC village, where the field work was conducted said,<sup>360</sup> already many acres of land had been given to a bamboo company and rubber plantations, and a proposal to build “Saurav Ganguly Cricket Academy” was lingering over their heads. The people had protested against the acquisition and they feared that the proposal had merely been put on hold due to the impending local elections. Also, as some admitted, they were scared of participating in any survey which did not have the support of the ruling party. One of the village heads said they would speak only if the party sent us.

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<sup>360</sup> Interviews across villages. 6 January-10 January, Bhagwan Chaudhury ADC village, Tripura

### 3.2.2 Role of Administration: The Autonomous District Councils in Tripura

Tripura Tribal Areas Autonomous District Councils (TTAACD) Act 1979 was passed by the Indian Parliament in 1979 in response to the demands of an indigenous movement, and came into force in 1982. Visiting TAADC offices and meeting their officials was not encouraging, as the interviews conducted resulted in no proper response to any question, and the Chief Executive Member, Radhacharam Debbarma, affirmed that no land was being transferred from tribal to non-tribal people under his watch. However, the office could not provide numbers of cases of land alienation,, and do not have any link to the Tehsil or Survey-Settlement office where records are maintained. The tribal people have to visit the Revenue office headed by the Collector to get access to their own records of rights.

The annual report of the ADC talks about ‘developmental’ activities, like building of science parks, schools and hosting of cultural festivals. As an officer at the ADC later explained<sup>361</sup>, “The council cannot help the tribals much as they do not interfere in land-related matters.”

The Mukhiya<sup>362</sup> of one village said that it did not matter whose government it was, the tribal would be in the same situation and would have to lose his resources.

Even within the bureaucracy a majority of office-holders are Bengalis, which does nothing to instill confidence among tribal people. At all major offices, Bengali is treated as the official language, and records are also maintained in Bengali.

There are multiple offices to be approached for gaining access to the records—Collectorate, Survey-Settlement, ADC, Deputy Collector, SDM—all located far away from each other, rendering the process confusing, time-consuming and overwhelming.

Luis Debberma<sup>363</sup>, a villager working against land acquisition, said, the tribal people do not trust those of Bengali origin and several incidents of violence have been reported in the past. These ensued out of conflicts over land, and even led to sexual offences against women from Tribes communities. He said, “Even if land is restored to tribals, they would not take possession in areas where Bengali people dominate.”

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<sup>361</sup> resident of village, ( name changed ) 28 ,student researcher held at 11<sup>th</sup> jan 2016

<sup>362</sup>Identity hiden, 49 , held at village, 9<sup>th</sup> jan 2016

<sup>363</sup>resident of village, 54, held at 11jan 2016

## 4. Processes of Land Alienation: Understanding Tribal land alienation in Mohanpur

A few families during the survey admitted that land was being given away to cooperatives or NGOs through lease for 99 years, in which the ownership did not change on paper. However, the most common route to loss of land remained that of land acquisition. In Bhagwan Choudhury *para* in Mohanpur block, around 30 households had lost their land to a rubber plantation, which had acquired 100 acres of land across multiple ADC villages. However, many families were still awaiting compensation installments.

R. Debberma<sup>364</sup> mentioned that he was promised an amount of Rs 2 lakh, but got Rs 80,000 and “there is no communication further from their side”.

However response to the survey was limited because of fear among the respondents. Debberma<sup>365</sup>, who sold his land to educate his children and to meet daily survival expenses, stated, “I have sold my land to a non-tribal but no one knows in the village because loss of land is an insult among the tribal community.” This could also be a reason why people did not admit to transfers.

As a result of loss of land, people said, many young tribals have begun migrating to the city in search of daily labour. As an old man in an interview stated, “Look at the cities, the cycle wala, and those who do hazardous work—most of them are from the tribal community, who left their villages for survival.”

## 5. Conclusion

It must be admitted that the unavailability of land records has prevented the formation of an exact account of the extent of alienation in West Tripura. However, the interviews and survey revealed the loss of land through land acquisition through the acquiescence of a state machinery completely in the control of a single ruling party, and dominance of the immigrant community preventing empowerment of the Borok people over the years. Although the protective legislation has made transfers difficult legally, the administration is not vigilant enough to stop legal transfers for which applications are made to them, and illegal transfers continue, though the scale appears to be lower than in Fifth Schedule states.

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<sup>364</sup> resident of village, 61, held at 12 jan 2016

<sup>365</sup> resident of village, 44, held at 13 jan 2016

But the issue of large-scale acquisition and a complicated and inaccessible administrative system, and along with Tribal Councils that are not making use of their power enough, appear to have undermined the protection of land rights of Scheduled Tribe populations granted under the Sixth Schedule.

## **Policy Implications**

The policy implications of our research are significant. Here, we outline our key recommendations, separately for central government, states, and civil society actors. The quest for tribal ‘empowerment’ and ‘agency’ informs much of our proposals.

## For central government

Replace the decentralising ethos of Fifth Schedule provisions, including of the changes proposed under PESA 1996, with real self-rule for tribals. This would require amending the Fifth Schedule of the Constitution, to either bring it in line with Sixth Schedule provisions (of autonomy and self rule for tribals, including over land and other resources), or to amend PESA 1996, and require states to work from the bottom, taking the tribal hamlet as the unit of habitation, empowering them with real judicial and executive powers, over land use and allotment, and management of forest and exploitation of mineral and other resources, besides social customs, plans and budgets. These tribal villages should link up to District Tribal Councils, which, as with Sixth Schedule provisions, would have legislative authority over land and forest, customary laws and a range of cultural and developmental issues. Alongside, and borrowing from the Manipur Legislative Assembly (Hill Areas Committee) Order 1972, a Tribal (or Scheduled) Areas Committee at state level ought to be created, made up of tribal members of state assemblies, with powers to advise the state legislature over all matters pertaining to scheduled areas of the state – including allotment and management of land and forests, besides economic planning and development, and constitution and powers of District Councils and Gram Panchayats, social customs and public health, among others. Unlike the Tribal Advisory Councils under the Fifth Schedule, these Committees would not be creatures of Governors, rather they would exercise statutory authority, to safeguard the interests of tribals.

Together, these reforms will create, at the critical district and hamlet/village levels, enabling and popularly elected institutions of tribal self-government, that when tied in with the state level Tribal Advisory Committee, should enable traction within government, at all levels, around tribal issues and agenda. Greater autonomy, will, besides ensuring greater local control over resources and opportunities, as against consultation or recommendation under PESA, also transform the political landscape in current Fifth Schedule areas, through creating a cadre of tribal leaders at state and district levels, with ownership of issues critical to tribals – giving a fillip to tribal organisation and voice.

## For State governments

1. Strengthen relevant protective and restorative laws (to prevent land alienation), remove loopholes, and bring conflicting laws in sync with land alienation laws.
2. Improve implementation of laws, invest in better processes and technologies, and management and monitoring
3. Train and capacity build revenue and tribal bureaucracy, especially at the frontline, on laws and guides
4. Set up grievance redressal mechanisms, against poor implementation of laws and violations of rights, and encourage speedy redressal. Push accountability of frontline and managerial staff
5. Improve land record management, through better surveys, better recording, maintenance and updation of records, and better access of data for the public.

## For civil society

- The third element of the reform agenda is strengthening civil society among tribals, and a push to social mobilisation, to create tribal 'agency' and 'voice'. This, it is hoped, would address issues of poor enforcement of existing laws by a tribal development bureaucracy that is captured by anti-adivasi interests. In the absence of tribals as agents of their own change, all the various opportunities – social, economic and political - already in place or those proposed, will remain largely unrealised. We saw how in the case of Fifth Schedule legislations against land alienation, absence of voice and organisation means public institutions have little incentive to be accountable, and adivasis themselves have little role in monitoring and enforcing the provisions. The example of Adivasi Ekta Parishad, an organization of tribals, organizing and educating tribals in Palghar district of Maharashtra, on land rights, and leading resistance to land grab, and as a result of these measures, being able to stand up to powerful forces, and slow down alienation, is a hopeful one. This is something that other actors could learn from.
- Equally important it is for civil society to monitor, document and track the working of laws and provisions for land alienation and tribal wellbeing generally, as well as the implications of poor working of these, on the lives of and life chances for tribals. And through use of popular media, bring it to the notice of the layman.

- Engender public discussions and debate on the issue, and raise the profile of the issue.

## **Annexures**

## Annex 1: Land alienation and restoration of tribal land (2007-08)

**Table 8.15: State-wise information on alienation and restoration of tribal lands**

Sl.N o.	State	No. of cases filed in court	Area	Cases disposed of by Court	Area	Cases rejected	Area	Cases decided in favour of STs	Area	Cases in which land was restored to STs	Area	Cases Pendin g in Court	Area	
1	Andhra	65,875	287,776	58,212	256,452	31,737	150,227	26,475	106,225	23,383	94,312	7,663	31,324	
2	Assam	2,042	4,211	50	19	-	-	50	19	50	19	1,992	4,192	
3	Bihar	86,291	104,893	76,518	95,151	31,884	49,730	44,634	45,421	44,634	45,421	9,773	9,742	
4	Chhattisgarh	47,304	NR	46,807	NR	NR	NR	21,348	43,803	21,269	43,620	79	181	
5	Gujarat	20,704	75,966	19,819	73,317	497	1,353	19,322	71,965	376	1,942	885	2,649	
6	Jharkhand	5,382	4,002	1,362	NA	283	NA	1,079	860	1,079	860	4,020	NA	
7	Karnataka	42,582	130,373	38,521	115,021	16,687	47,159	21,834	67,862	21,834	67,862	4,061	15,352	
8	Madhya Pradesh.	53,806	158,398	29,596	97,123	29,596	97,123	NR	NR	NR	NR	24,210	61,275	
9	Maharashtra	45,634	NR	44,624	99,486	24,681	NR	19,943	99,486	19,943	99,486	1,010	NR	
10	Orissa	105,491	104,742	104,644	103,556	43,213	46,677	61,431	56,879	61,364	56,854	847	1,186	
11	Rajasthan	2,084	6,615	1,257	3,978	53	187	187	587	187	587	1,067	2,355	
12	Tripura	29,112	25,441	9,040	7,269	20,043	18,131	9,040	7,269	8,945	7,165	95	104	
	Total	506,307	902,417	430,450	851,372	198,674	410,587	225,343	500,376	203,064	418,128	55,702	128,360	
	Total in hectares			365,351		344,685		166,129		202,581		169,283		51,968

Source: Annual Report 2007-08, Department of Land Resources, p.276

**Annex 2: Land records**  
(For the state as a whole)

State	Original cadastral survey (year and details)	Last survey conducted (year and details)	Whether caste/tribe mentioned?	Quality of maintenance of land records (impression from the research)	How accessible are land records to (tribal) public ? (impression from the research)
Andhra Pradesh	1950	2010	No	Very Poor maintenance	Not an easy task to get the land records for tribals, involves a lot of paperwork.
Chattisgarh				Big difference in record and reality....the complete mess – no transparency, and accountability, and the role that revenue officials play in manipulating documents and faking it.	C'garh HDR 2005, used <i>janraparts</i> . "Access to land records is not easy and the role of field level revenue officials is not always that of a facilitator. In many cases the records do not reflect actual ownership, especially in the case of larger landholdings.
Gujarat			No	Good way of keeping land record and maps , all document are computerized . the land record does not record caste on the document.	Land record are accessible but the old land record are difficult to access, land record are manipulate by authority without consulting with owner.
Jharkhand	1913-18 Cadastral Survey	1989 Revision Survey	Yes	Vey very poor maintenance, the Original survey has been totally destroyed and it was not possible to get a photocopy of it.	Very difficult and almost impossible for tribals to get it as it goes through various stages and requires a lot of permissions and paper work.
Madhya Pradesh			yes	The worst way of keeping land record ever seen, some of	The tribal does not have access to old land record, the document

				destroyed, damaged by rain water, the present land record got computerized.	manipulate by patwari.
Maharashtra			Some of	2016 land record getting computerized, cant access the land record easily has to go a many process. some of villages does not show caste or community on land record	The tribal does not have frequent access to old land record.
Orissa		1956	Yes	Present records are computerised. Settlement record in Tehsil office impossible to use. Terrible conditions. Not allowed to photocopy. Survey presented faulty data, discrepancies in ownership details. Lot of pvt land not surveyed	Tribals find it impossible to access RoR. No villager we met had the latest copy of Patta. Heavy corruption in issuing records.
Rajasthan			Yes	Records computerised. Old records kept systematically. Easily can be accessed by researchers.	Tribals can access land records from the Tehsil office, computerised data.
Tripura			No	Records kept at Mauja level, making it impossible to process and analyse. Not made available to researchers.	Tribals can access present Patta easily, but lot of discrepancies. Names showing non tribals.

**Annex 4: Working of relevant laws**  
(Impressions from research sites)

State	Main protective law (and its working)	Main Restorative law (and its working)	PESA, 1996 (it's working)	FRA, 2005 (its working)
Andhra Pradesh	A.P. Scheduled Area Land Transfer Regulation-1959	AP Lands (Prohibition of Transfers) Act 1977	yes	Yes
Chattisgarh	Chattisgarh land revenue code.	section 170 B of Chattisgarh land revenue code	Not	NO
Gujarat	Bombay Land Revenue Code, 1972, section 73AA, 73AB 79 its frequently not working, collector openly gives permission for land sell and transfer , even for government land	Very less case have success, or chances to restore, the cases related to high profile vs tribal that have no chance.	NO	NO
Jharkhand	Chota Nagpur Tenancy Act, 1905. Santhal Pargana Act, 1949 applied to some district	Inside CNT. 1908, Scheduled Areas Regulation, 1969	Does Not work there	Yes,
Madhya Pradesh	Madhya Pradesh land revenue code 1959	Sec. 170B	NO	NO
Maharashtra	Maharashtra Land Revenue Act 1966, section 36 ,all the laws are on feet on broker,	Maharashtra Restoration of land to Scheduled Tribe Act1974 , its working but	PESA does not look as law , from Garmsabha to government official all	NO

	corporate ,politician and government official	cases of decline rate are high by court and government official	broke the PESA law	
Orissa	Section 22 of Orissa Land Reforms Act	Section 23, 23A Orissa land reform act 1960	No	NA
Rajasthan	Rajasthan Tenancy Act 1955 , 43, 42, 46	Section 183 B Rajasthan Tenancy Act	No	No
Tripura	TTAADC , 1979	section 187 of Tripura Land Reform and Land Revenue Act, 1960	No	NO

**Annex 5: Voice and Accountability matrix**  
(in research sites)

State	Awareness among tribals, about laws and rights	Grassroots mobilization against land alienation/for tribal rights – Sangathan /NGOs..	Recent history of any successful campaign against alienation	Assessment of attitude of revenue officials (low and high) towards enforcing the laws
Andhra Pradesh	Not much	Not any	No	Very low
Chattisgarh	Lack of awareness	Lack of grassroots mobilization	Yes , not specific in studied village but in other Village in barpali in tamnar block , taken 300 acre land back from jindal by Jan Chetana Sanghatan	No will to act, very less cases get successes
Gujarat	No awareness among tribal	Very less sanghatan work here, expect Dalita Adivasi Ekta Morcha, working to awareness between tribal , but not a strong mobilization due to government false cases against activist	No	Very less will to implement the law even when there is proof. No action against the law breaker, freedom for grabbing land for any purpose
Jharkhand	Very Poor	Not any	No	Very Low
Madhya Pradesh	No awareness, even with govt official	No mobilization , no NGO	Upper caste powerful lobby does not allowed this	No care for implementation of law, and those who work system bring them down
Maharashtra	Strong awareness with tribal	Adivasi Ekta Parishad , strong mobilisation against land alienation .	Adivasi Ekta Parishad, Kashtakri Sangtana, strong campaign in specific district thane and Palghar and rest	Very less will to implement the law even when they have proof. No action against the law breakers, there have been

			Maharashtra	incidents by state doing false cases on tribal activist
Orissa	Very low	High	Narayanpatna	Low
Rajasthan	High	High		Low
Tripura	Low	Low		Low

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