

Source Book  
for  
Functionaries in Tribal Areas

2

Land and Identity Issues in Tribal Areas



Tribal Welfare Department, GoAP, Amaravati  
Centre for Innovations in Public Systems, Hyderabad  
University of Hyderabad, Hyderabad

2018



**Source Book**  
for  
**Functionaries in Tribal Areas**  
*Volume 2*  
**Land and Identity Issues in Tribal Areas**



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## *Editors' Note*

Administering the tribes in the country has been a part of the commitment made through the Constitution to strive for their socio-economic development. However, that has never been an easy task despite having specific policy driven formulations, separate administrative machinery, budgetary allocations and fixed targets over the period of six decades. Of the plethora of problems and issues of tribal society, the role of human component remains significant, though relentless efforts have been made to bring forth tangible results in this particular area. Services of trained and dedicated personnel to take up the arduous responsibility envisioned when planned tribal development was envisaged through the establishment of Tribal Research Institutes or Tribal Cultural Research and Training Institutes. The provision for the same was made in various states with the support of Ministry of Social Justice and Empowerment and later Ministry of Tribal Affairs, Government of India. These institutions are expected to impart training to the functionaries of the tribal welfare departments particularly sensitizing them about the tribal cultures, besides undertaking evaluation of various schemes and programmes implemented by the State Governments either on their own funds or with the support of Government of India. These are also to undertake research into the tribal culture, guide policy makers in preparation of special tribal development plans, in addition to suggesting policies required for the speedy socio-economic development of tribes. But unfortunately, the contributions of Tribal Research Institutes and their role in enriching the human power for gearing up tribal development remains deficient till date.

Apart from these institutions, several academic departments in the universities and various social research institutes have also been engaged in studying the tribal issues and their development for meeting academic needs and interests. Among all these, social or cultural anthropology stands out to be a unique discipline that has been concerned with the tribal issues specifically besides other questions relating to either pre-modern or modern or post-modern societies across the globe. The history of anthropological research in India dates back to the colonial period, 1916, initiated by the British administrators and the foundation of anthropological research was laid in 1945 which later became as Anthropological Survey of India that has been completely devoted to the research into tribal culture and the issues of tribal people. India is one of the earliest countries in the world that initiated anthropological research. In the academic arena, the first post-graduate department of anthropology was established in 1920 at the University of Calcutta, and after the independence, several departments are established where anthropological research has been vigorously followed using sophisticated tools and techniques. Apart from these institutional frameworks, the knowledge of tribal issues has also emerged from the government departments such as former Planning Commission, Commissioner for Scheduled Castes and Scheduled Tribes, and National Commission for Scheduled Castes and the same for Scheduled Tribes from their independent studies. Thus, enormous body of knowledge accrued so far, points out to the need of committed human power in the tribal welfare department.

Though academic departments, Anthropological Survey of India, social research institutions and other Government of India departments and institutions have been carrying out research in tribal culture, evaluating the tribal development programmes and so on, yet the Tribal Research Institutes are the direct organs of the state governments



that have been implementing the tribal development programmes. However, whatever be the reasons, the Tribal Research Institutions in the country have not been able to meet the expectations, and in some cases, they have become non-functional or playing a nominal role. Yet, there is an absolute necessity of such devoted institutions and rejuvenation of them is the need of the hour. Whether this happens or not, the tribal development will continue to act as a separate domain given the pace of development of the tribes in the country. The governments continue to engage and deploy their human power and machinery for the cause of tribal development. The officials are agents of the government who are engaged in the development programmes of the tribe and in most of the cases have the knowledge or gained such knowledge of the tribal people on the basis of their personal experiences though they are experts in their own field of specialization. The government is mostly seen, felt and experienced by the tribal people through these officials or machinery of the government. Their expertise in their special fields requires to be synergized with the knowledge about people whom they are serving for obtaining the desired results. Such synergy of knowledge may have eluded a necessary component in their formal training in the expert field, but its significance comes very real in practice. More importantly, the knowledge and sensitivity appear as a big help, when it comes to tribal society which might be different from their own society in which they have grown. Therefore, these officials or functionaries require an orientation towards tribal issues and such orientation could be provided by the Tribal Research Institutions, but such exercises are hardly ever practiced. Nor is there any programme or module or handbook developed so far in the country.

Over the years there has been a number of high power Committees that have studied tribal issues, submitted reports and made suggestions on the basis of which several Acts are passed and further modifications of the Acts have also taken place. Consequently, tribal policies have also been modified, new regulations have emerged. Simultaneously, the range of tribal issues also got changed/expanded in course of time, new issues surfaced while the old ones persisted or old issues continued with new dimensions. But there is no single source to provide all these changes either in terms of administration or the tribal situations due to scattered information and dispersed sources. Even if the officials working in tribal areas desire to acquire a comprehensive knowledge of tribal issues, and efforts made by the government about the tribal development over the years, it becomes a herculean task to pool together the scattered information to a single place.

From the above discussion, it is needless to emphasise the need for strengthening the human component in the efforts of the tribal development in the country. Though the government realised its importance, there was no concerted effort towards these ends. As there is neither orientation of officials, nor guidelines for such exercise or comprehensive information about the tribal development, the present exercise is mainly aimed to fill this gap.

The sourcebook presented now in this regard is intended for the use of officials working in the government departments concerned with tribal welfare in the light of the above discussion as a guide. It may be used for self-learning or as a manual in the context of training in a formal teaching and learning mode. This document is conceived with three assumptions: (1) many functionaries have little knowledge about the emergence and existence of various Acts, amendments to Acts, schemes currently in vogue (including the spirit and context of a specific scheme; fund position, procedures of sanctions and

execution) that are relevant for their functioning; (2) the functionaries working in tribal areas are short of cultural competency to effectively function and so there is a need to help them to identify where this shortfall could have an impact and how it would affect their successful functioning; (3) working with communities and achievement of community participation is possible only when the functionaries understand the structures and institutions in the tribal communities and succeed in identifying the cultural resources that enhance the participation. Keeping these assumptions in mind, the sourcebook has been planned drawing strength from the anthropological research inputs in terms of tribal culture, evaluation of various development programmes and findings. Further, it has taken into consideration the potential of tribal traditions, knowledge and ethos that can be used for their own development in the contemporary political and economic backdrop. The sourcebook is expected to provide not only required knowledge on tribal society and its issues, development efforts but also motivation that the reader would need for committed service.

The source book is designed in nine volumes. Volume 1 contains units that focused on themes which are assumed to be of general interest and which provide the prerequisite information that enables comprehension of information provided in the other units. Volumes 2-9 are meant for functionaries of different departments and working in the tribal areas. The themes or units covered in the general section include 'Indian society: Indigenous populations, Scheduled Tribes and Scheduled Castes' that provides the background of tribal society in Indian context, and the theme 'Building Emphatic interactions with Tribals' is very important as it discusses the relevance of humanistic approach to the tribal issues for the ethnocentrism has been a great impediment for the proper attitude towards the tribe around the globe. 'Approaches to Tribal Policy and Tribal Development' is the general theme that highlights the basic philosophical framework of the government of India in which tribal development is conceptualized. The theme of 'Role of Traditional Leadership and Tribal Institutions in Development Process' has been included in this section to show forth the significance of leadership in the tribal society and because harnessing this resource is utmost important for ensuring community participation. The theme 'Constitutional framework, Human Rights and Child Rights' elucidate the concerns of the state about the vulnerable nature and precarious conditions of the tribes who live in close interaction with the surrounding, dominant non-tribal society. The theme 'Contemporary Tribal Challenges' discusses not only the age-old problems but also the new problems emerging through new interventions and problems emanating from the modern society. The section also includes the themes 'Tribes in Andhra Pradesh: Diversity and Social Organization' which gives the brief account of the tribes of Andhra Pradesh and 'Social organization among the tribes of Andhra Pradesh'. The inclusion of this theme has been considered important keeping in view the need to have a general understanding of demography, culture and society of tribes in the State. Thus, this section provides general reading necessary for all functionaries regardless of their expertise or professional background.

The volumes 2-9 are meant for role-specific professionals working for different departments such as (1) Revenue; (2) Police; (3) Forest; (4) Health; (5) Education; (6) Development (including Agriculture); (7) Panchayat Raj; (8) Marketing and (9) Youth Welfare; Entrepreneurship development, Tourism and Culture. The themes covered in these different sections are to facilitate the functionaries for enhancing their knowledge and skills on issues that are important for their specific roles in their respective departments. What guided while designing these sections, are the following concerns:



The Revenue deals with a range of aspects covering not only land issues but also the issues of tribal identity certificate, and in this case there have been problems. For example, land alienation is an issue in Scheduled V area but at the same time, there is a problem of land acquisition by the state itself against the interest of the tribes. There have been several interventions through the enactment of Acts and the officials should be familiar with these. In Police department, the issues are related to not only atrocities committed against the tribes but also Naxalism and tribes being sympathetic with those who raise arms up against the state. The customary law of the tribes takes care of the majority of law and order situation, but at times police intervention becomes necessary as the former cannot remain outside the statutory law, court and legal matters. Forest is the soul of the tribes, and therefore, the life of the tribe has been strongly intertwined with the forest department. Involving the tribes with the activities of the Forest department deserves the highest priority, but synergy in this regard is yet to be achieved despite the state's recognition of this vital issue decades ago. The departments concerned with Health, Women and Child Welfare and Public Health engineering are crucial as the environmental degradation, population growth, contact with non-tribes etc., have a significant impact on the tribal health. The tribal indigenous systems continue to be a great source of maintaining health, yet there are limitations of structural kind, and as we can reflect more, we are able to see that the tribes have not been averse to the modern health practices also as well. However, there is a need for bringing these systems together for improving the health standards of tribes.

The role of Education department in tribal society is immense; it is obvious, through education only, the tribes can face the modern world with better preparation. Though some progress has been made there is a lot to be achieved, and a number of hurdles are there on this road yet to overcome. The departments concerning the Infrastructure, Housing, Agriculture and allied activities play a crucial role in the overall development of the tribes. The officials shall ensure community participation by being empathetic and sensitive to the needs of people and understand the cultural ethos and recognizing the local resources and time-tested indigenous knowledge. Finally, the departments that deal with the Youth Welfare, Entrepreneurship Development, Tourism and Culture actually shall guide the future generation and equip it to meet the present challenges and prepare for the future with certain innovative ideas. They should be creative and develop the habit of thinking out of the box, and exploit the tribal potential for their own good. Thus, in brief the volumes 2-9 form the core of this exercise in reorienting, re-equipping, rejuvenating the functionaries or officials and providing material on tribal development in a holistic perspective.

Finally, we shall say that it is a unique experience of bringing together several renowned and experienced resource persons to share our ideas with them and receive their reflections and also convince some of them to contribute to this volume. We sincerely acknowledge their help and are really grateful to each of them. Since it is the first of its kind on the tribal development in the country, we are sure this sourcebook is not free from some omissions and commissions. We will surely rectify these in the subsequent edition once we get feedback on the present volumes.



# 1

## Tribal Areas: Pre and Post-Independence

Widely respected in the civil society, B D Sharma spent his life fighting for the rights of tribals for about four decades. Excerpts from a conversation with Richard Mahapatra.

“Yes. I feel we all committed a mistake by not applying the Article 19 of the Constitution in tribal areas of central India. (It ensures fundamental right to move freely across India but limits access to certain areas.) We have imposed the restrictions in north-eastern states”.

<http://www.downtoearth.org.in/interviews/independent-india-worse-for-tribals-38299>

- *How do you think the contact of tribal with non-tribal populations has affected the tribal culture, political life, social harmony and economy in the post-independence?*

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## 1. Introduction

Tribes in India have a significant place in her history, culture and polity. They have been referred to by various names, and the Constitution of India recognizes them as Scheduled Tribes. They represent an enormous diversity of communities inhabiting different ecological zones and scattering across the country. They are "differently placed with respect to the politico-administrative structures existing in the country. Where they are a numerical minority, they are a part of the general administrative structure" and "where they are numerically dominant, two distinct administrative arrangements have been provided for them in the Constitution in the form of the Fifth and Sixth Schedules" (High Level Committee 2014). The Fifth Schedule covers the tribal areas of the country except for North-Eastern region and provides special provisions for the administration and control of such areas that are referred as Scheduled Areas. On the other hand, the Sixth Schedule provides for the governance of the Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram. In this background, the present unit intends to provide an evolutionary outline of the tribal areas and their governance in India in general and governance in Fifth Schedule areas, which encompass the majority of the tribal areas of the country, in particular.

## 2. Learning Objectives

At the end of this unit, you know about:

- (1) Different categories of tribal areas and their governance in general,
- (2) Historical background of tribal areas and traditional governance during pre-colonial period,
- (3) The British intrusion into tribal areas and their governance,
- (4) Tribal movements against the colonial governance and Agency laws,
- (5) Nizam governance in Telangana area,
- (6) Tribal revolt and ameliorative measures in the Nizam dominion,
- (7) Governance of tribal areas in post-independence India,
- (8) Peace and Good governance in Scheduled areas of Andhra Pradesh, and
- (9) Local self-governance in Scheduled Areas.

## 3. Tribal Areas and Their Governance in India

Tribes in India are referred as *adivasis*, *girijans*, *vanavasis*, aborigines, primitive tribes, etc. As these terms indicate, they live in diverse ecological settings and differ widely in their habitats and ways of living (e.g. modes of production, social organizations and cultural practices). They vary among themselves in respect of language, physical traits, size of the population, the extent of acculturation, economic activities and livelihood strategies, level of development and social stratification. Their geographical distribution is not uniform. A majority of them is concentrated in the central, eastern, western, and southern belts of India covering the States of Madhya Pradesh (14.7%), Maharashtra (10.1%), Odisha (9.2%), Rajasthan (8.9%), Gujarat (8.6%), Jharkhand (8.3%), Chhattisgarh (7.5%), Andhra Pradesh and Telangana (5.7%), West Bengal (5.1%), and Karnataka (4.1%); some of them inhabit the Assam (3.7%) and Meghalaya (2.5%) of north-eastern region against the total tribal population in India as per 2011 Census.

The Constitution of India, which refers the tribes as Scheduled Tribes, envisages two categories of tribal areas under Fifth and Sixth Schedules. The tribal areas covered under the Fifth Schedule are referred as the Scheduled Areas. The States having Scheduled Areas at present are ten, namely Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana. The Scheduled Areas and Scheduled Tribes in these States are governed by the provisions of the Fifth Schedule. The tribal areas covered under the Sixth Schedule are referred as the Tribal Areas. The States having Tribal Areas are Assam, Meghalaya, Tripura and Mizoram. These are administrated by the provisions of Sixth Schedule.

- **States having Scheduled Areas:** Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana.
- **States having Tribal Areas:** Assam, Meghalaya, Tripura and Mizoram.

However, not all tribes or tribal habitations are covered under the Fifth or Sixth Schedules. For example, the tribes such as Yanadis, Yerukalas, Sugalis or Lambadis or Banjaras in Andhra Pradesh and Telangana are outside the Fifth Scheduled Areas. The reasons for this include: 1) they are a numerical minority population in comparison with the general population (despite having a large size of their population in a State) in the plains or non-Scheduled Areas, and 2) the process of scheduling of tribal (or tribal-dominated) areas under the Fifth or Sixth Schedules is incomplete. So, the plains-living tribes and their areas became a part of the general administrative structure and governance of the country. Of course, certain rights have accrued to Scheduled Tribes across the country through reservations in educational institutions and government employment.

In this background, this unit will concentrate on the tribal habitations that are now governed under Fifth and Sixth Schedules, in general, and the Scheduled Areas of Andhra Pradesh and Telangana in particular.

#### 4. Tribal Areas and Traditional Governance in Pre-Colonial India

The majority of the tribes in India have inhabited the hilly and forested regions since time immemorial. They depended on natural resources for survival and subsistence, lived in isolation for generations, and evolved their own culture(s). They have a tradition of collective ownership. Land for them was a community asset rather than an individualised economic asset or private property. These forest-based and self-sufficient communities with independent cultural identities led an independent way of life for centuries. These independent tribal communities were living according to their own customary laws and rules. Some of them had their own political systems and chiefdoms for self-governance, for sometimes. The terms like Raj Gonds (claimed to ruling class), Racha (kingly) Koyas or Koya Doras (Koya lords), Konda Doras (=lords of the hills), Nayaks (chiefs/leaders), Konda Reddis (=leaders of the hilly area), Bagatas (lords of the hills) and Samanthas (=subordinate kings) – all indicate their past status and glory. They were in co-existence with established states for a long time. They are freedom lovers and there were vast tracts covered in forests, difficult of access to outsiders, and sparsely populated. Such areas were later intruded by outsiders from the plains in various ways for various purposes and at different time periods.

#### 4 • Land and Identity Issues in Tribal Areas

Earlier numerous kings (Hindu rulers) who ruled the Andhra area, for example, subjugated the tribes or tribal/hill chiefs. Later the Mughals and Muslim kings of Golkonda who invaded the region preferred to continue the administration of those areas through local chiefs and Hindu rulers. The subordinate/hill chiefs while administering their own areas were paying to the local Hindu rulers the annual tributes and also tributes to them on all important Hindu festivals. Hindu rulers were also reciprocating with gifts and were honouring the chiefs on all important occasions.

Later the Muslim kings of Golconda gave the designation of Zamindar (owner of the land) to the Rajas. These Zamindars (Rajas) were demanded of fixed rent and the administration of the Zamindaris (estates) was left to them. They had, in turn, appointed smaller Zamindars for tribal areas who in turn appointed Muttadars (the head of Mutta is called Muttadar, and Mutta refers to a group of villages) in Godavari and Visakhapatnam districts of Andhra region or Samuthudar (head of a group of Koya villages) in Bhadrachalam area of Telangana region. The smaller Zamindars also called themselves as Rajas in the traditional setting. They collected the rents from Muttadars or Samuthudar. These Muttadars or Samuthudar came from upper strata of tribal society of the area (for e.g., Konda Reddi or Koya in Godavari district and Bagatha in Visakhapatnam district). All the Zamindars and Rajas of the plains who happened to hail from upper castes maintained a cordial relationship with the hill chiefs and also with intermediary Zamindars. The Muttadars and smaller Zamindars were giving presents to the Zamindars – as symbolic tokens of gifts to the rulers, even though the Zamindars did not have control over the hill chiefs. During this period, it was only the Rajas who were defeated by Muslim rulers and the smaller Zamindars continued to be under Rajas. Thus, the hilly and forest dwellers were left undisturbed for a long period, until the British rule.

## 5. British Governance, Tribal Movements and Agency Laws in Andhra Area

### 5.1. The British Intrusion into Tribal Areas and the Beginning of Disturbances due to Interference

The British that ruled later on, unlike the earlier Zamindars, tried to interfere in the way of life of the tribes. The tribal areas which were endowed with large potentialities attracted the attention of the British rulers. They thought that revenues can be raised from these forested-tribal areas by establishing direct rule and control over these areas. They were also interested in the exploitation of abundant forest wealth, mainly wood for railways, tea and coffee plantations. Such intrusion of British into tribal areas mainly for exploitation of forest resources for commercial interests is also evident from the earlier colonial forest policy during the late eighteenth and nineteenth centuries. This commercial forest policy led to the disintegration of the traditional tribal system and forest-oriented economy. It resulted in a negative impact on the tribal population.

With such interests, the British slowly entered into tribal areas through Zamindars. They even ignored the misdeeds of the Zamindars only to woo them. This caused adverse actions and reactions as happened in Rampa of Godavari district.<sup>1</sup> Other non-tribal

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<sup>1</sup> Rampa was once the place of a small Zamindar. This chief was having control over the whole Rampa country. This Zamindar, called as Munsabdar or Raja of Rampa was an independent ruler and a non-tribal. The tribal chiefs, who were referred to as Muttadars were his subordinates. Between 1803-1813, the Munsabdar took forceful possession of some villages in the plains. The British in 1813 handed over

Zamindars were also either oppressing the tribes or fomenting trouble in tribal areas that led to several disturbances. These are evident from the reports of George Russel (First Member, Board of Revenue), whom the Government of Madras sent in 1832 to investigate on disturbances in Ganjam and Vizagapatnam districts. In his reports in 1834 and 1836, Russel suggested the need for removing the existing causes of disturbances and irritation on the part of hill Zamindars by exempting the areas from general regulations or ordinary laws. He suggested for placing the areas exclusively under the Collector of the district who was vested with the entire civil administration of government and criminal justice. His reports led to the enactment of Ganjam and Vizagapatnam Act, 1839.<sup>2</sup>

The compelling factor behind this Act was to maintain law and order. The British believed that the non-tribal Zamindars in tribal areas misused their traditional bonds with hill chiefs to create law and order problems for British in the inaccessible jungle areas. The Zamindars themselves have taken shelter and instigated the tribal chiefs to fight against the British and at the same time wanted to check the hill chiefs when it came to maintaining their authority over hill areas.

## 5.2. Scheduled Districts Act, 1874

This Act owes its origin to Ganjam and Vizagapatnam Act, 1839. This Act is a landmark in the history of administration of tribal areas as it laid down the procedures for separate treatment for the areas notified under the provisions of the Act. Most of the areas notified are inhabited predominantly by tribes. Importantly, this Act itself came into existence as a Government of India Act as a result of growing unrest in tribal areas of the country and the need for separately administering these areas. As such, even though the exclusion of the area started as a measure for maintenance of law and order, it assumed protective aspects also.

More areas in Godavari district were brought under the purview of this Act by notifications. Local governments were empowered to conduct the administration, and civil and criminal justice, within Scheduled districts. Under this Act, local governments were empowered to appoint officers and regulate the procedures of officers appointed. Based on this Act, the Governor made rules in 1924 for the administration of the Agency tracts and for regulation of the procedure of the officers appointed to administer them. Under this Act, the District Collectors were designated as Agents and the Sub-Divisional Officers as Agency Divisional Officers to exercise the powers in the Agency portion of the district or Sub-Division respectively.

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charge of maintaining law and order in them to this Munsabdar. This caused the exploitation of tribes by him. Resistance by the Muttadar of Rampa also came to the fore by 1858, the year when the Andhra came under the rule of the Crown.

<sup>2</sup> **Ganjam and Vizagapatnam Act, 1839:** It is for the administration of justice and collection of revenue in certain parts (in the tracts mentioned in the Act) of the districts of Ganjam and Vizagapatnam. The Act excluded certain specified areas from purview of normal administration. Important feature of this Act was: The administration of civil and criminal justice and collection of revenue shall be vested in the Collector of the district and shall be exercised by him as “Agent” for the state government concerned. The areas administered by “Agent” came to be known as “Agency” areas since then.

However, the rules to implement the Act were framed only in 1860. So this Act did not have any impact till then. But the procedures for separate treatment were not laid down. Therefore, this Act became in-effective. This led to a review by the British government and enactment of the Scheduled District Act, 1874.

### 5.3. Rampa Rebellion, 1879

#### 5.3.1. Disturbances in Rampa Area

Depredations of Munsabdar of Rampa continued unabated. Discontentment among the hill tribes against the Munsabdar was also growing as the excise policy of British, their police activities and exploitation by traders from plains were occurring with his connivance. The Munsabdar of Rampa had annexed several Muttas. He had also arrogated his powers in collecting excise rents from the Muttadars.

The Abkari Act 1864 was in operation in agency areas. The British allowed the Munsabdar to brew arrack for the consumption of Koya and Konda Reddi villagers on payment of a fee of 2 *annas* per head per annum for every male over 14 years of age. The village headman or Muttadar was required to take out a licence and make and supply arrack. But in practice, no licence was granted but rented to outsiders. The toddy trees were also leased out to renters. The rent levied and collected by British from Muttadar also included the *chigurupannu* (toddy tax). The toddy renters demanded the Muttadars to pay for the right to tap toddy. But, the Munsabdar also levied additional tax called *modalupannu* at the rate of one half or two-thirds of *chigurupannu*. Thus the local tribes were not allowed to tap toddy even for own consumption and were forced to pay taxes on toddy trees. By this time traders/merchants from the low country also started deceiving/cheating the tribes.

#### 5.3.2. Disturbances in Bhadrachalam Area

Here earlier the shifting cultivation was allowed without any restriction. The British Government of Madras levied thrice the amount as tax besides imposing fines on Koyas felling certain trees declared as reserved trees. For the manufacture of arrack from *ippa* (*Mahua longifolia*) flower, a traditional practice here, the tax had to be paid by them when these areas formed part of Madras government. As the government's control on their way of life increased manifold, tribes became restless.

Thus tribal areas were burning with unrest and the hill people laid blame for all these injustices on Government and Government rules and regulations, and thought that the only remedy lies in rising against the authority. The rebellion first started by the hill tribes of Rampa under the leadership of Karam Tamman Dora, a Koya leader of Bhupatipalem in March 1879, and soon it spread to the Bhadrachalam area. The other chief leaders of the rebellion were Chandraiah, Sardar Jangam Pulikanta Sambaiah, and Ambul Reddi.

### 5.4. Removal of Munsabdar and Settlement with Muttadars

At the time of the Scheduled Districts Act 1874, there were discussions in the British Government on the desirability of continuing the intermediary Zamindars in the tribal areas and especially after the experience with Munsabdar of Rampa. Later the Government of Madras sent H.E. Sullivan (1st Member, Board of Revenue) for enquiring into the causes of Rampa rebellion and to suggest remedies. In his report in 1879, Sullivan analysed the causes of Rampa rebellion, and also suggested for settlement of Muttas directly in Agency areas as most of these were usurped by the Munsabdar resulting unrest and loss of faith in the Government. Causes for discontentment among hill people, according to him, were: 1) repeated acts of aggression and oppression on the part of Munsabdar from 1847-48, when an agreement was arranged between himself and the hill Muttadars; 2) the administrative error in having brought the Rampa country under the operation of Abkari law; 3) the

absence of proper supervision and control on the part of the European officers, in revenue and police departments. Sullivan also reported the other misdeeds of Munsabdar like toddy tax and additional tax; Abkari Act in Scheduled areas, without examining its applicability there and especially after the enactment of Scheduled Districts Act of 1874.

In view of the above, the tribes started protesting from 1858 onwards. In response to Sullivan's report, Munsabdari tenure was "cancelled absolutely and for ever", not only for the Munsabdari of Rampa but also the Mokhasa (rent free) tenure of the villages given to his forefathers. Sullivan had also explained how the plains merchants exploited the hill tribes especially in the purchase of tamarind.

### 5.5. Agency Tracts Interest and Land Transfer Act, 1917

Enactment of this Act is an important event in the Agency administration. By the time of this Act, there was a change in the attitude of British Government towards Agency tracts. The expediency of this Act was to limit the rate of interest and to check transfers of land in the Agency tracts of the Ganjam, Vizagapatnam and Godavari districts, from tribes to others.

#### Change in the attitude of British Government towards Agency tracts

1. Ganjam and Vizagapatnam Act, 1839: it was to exclude the areas for purpose of law and order.
2. Scheduled Districts Act, 1874: it has an element of protection to the scheduled areas.
3. Agency Tracts Interest and Land Transfer Act, 1917: the anxiety of the government to protect the economic interests of tribals and also on land is more pronounced because of increasing exploitation.

### 5.6. Government of India Act, 1919

By the Government of India Act, 1919, the areas were removed from the purview of legislatures, but limits of exclusion deferred in their extent and degree. Thus two categories were raised namely: "Wholly excluded areas" and "Areas of modified exclusion."

### 5.7. Rampa Rebellion, 1922-24

This is also referred as Rampa uprising/*fituri*, or Alluri Sitarama Raju's *fituri*/uprising. The tribes of Rampa country and adjoining Chintapalli areas in East Godavari and Visakhapatnam districts respectively rose against the British under the leadership of Alluri Sitarama Raju, a high-caste Hindu from the plains, during 1922-24. It was mainly against the restrictions on tribal access to the forest areas with the Madras Forest Act of 1882, which reserved the forests and forest lands and restricted/prevented tribals from free movement in the forest areas and their traditional practice of *podu*-cultivation (shifting cultivation). Sitarama Raju was able to transform the local dissent and rising into a minor guerrilla war, recruiting dispossessed landholders and offenders against the forest laws. Though this uprising ended with the killing of Sitarama Raju in 1924, it inspired certain other tribal revolts elsewhere and became so popular among the tribal and freedom movements in India.

## 5.8. Andhra Pradesh Agency Rules, 1924

It may be noted that whenever there was unrest in the tribal areas, it resulted in revolt with positive consequences in the administration of tribal areas. The uprising of tribals in the Agency areas of East Godavari and Visakhapatnam districts under the leadership of Alluri Sitarama Raju resulted in recognition of the need of special protection for the tribals and a shift in focus from earlier administrative measures. While the uprising of 1922-24 was predominantly due to declaration of forest reserves and exploitation of tribals by the local government machinery, it had also pointed out the need for administration of justice in a quick and fair way in the tribal areas. Sitarama Raju was also influenced by the Gandhian principles of Swaraj and hence he worked for customary mode of dispute resolution in the tribal areas. This has prompted the Provincial Government of Madras to come up with a set of rules. These are now known as the Andhra Pradesh *Agency Rules*, 1924 were issued under the Scheduled Districts Act, 1874. It is appalling to note that the rules were issued after 50 years of the enactment of the Act. After the formation of the province of Orissa in 1936, the rules were amended by the then Orissa government in 1941, 1946 and 1947.

The rules meant for the administration of the Agency tracts of Andhra Pradesh and for the regulation of the procedure of the officers appointed to administer them, thus came into effect. The rules clearly stated about the powers of the officers – Agent to the Government (District Collector), Agency Divisional Officer (now Revenue Divisional Officer or Sub Collector), and Agency Munsiff (now Mandal Revenue Officer or Tahsildar); and institutions and procedures – civil justice, jurisdiction of courts, transfer of suits, execution of decrees and orders, etc.

Under these provisions, the Collector was empowered to appoint his subordinates as Agency Munsiffs in the Agency tracts. The courts of Agent to the Government, Agency Divisional Officer, and Agency Munsiff were empowered to admit without payment of court fee, any suit or appeal, if satisfied that the complainant or appellant was not able to pay. Agency Munsiff was allowed to take cognizance of suits for movable or immovable property not exceeding in value Rs.500/-. Suits of a value exceeding Rs.5000/- were to be instituted in the court of the Agent to the Government. All civil processes of the courts situated within the jurisdiction of the Agent to the Government, shall be executed through the headman or police patel of the village or mutta in which the person to or against whom the process is issued may reside or the property in respect of which it is issued may be situated. These rules were initially applicable to the districts of East Godavari, West Godavari, Visakhapatnam, Srikakulam and Khammam and later extended to the districts of Adilabad, Warangal and Mahabubnagar (now in Telangana) by Amendment Regulation II of 1963.

## 5.9. Government of India Act, 1935

On the recommendation of Simon Commission, Government decided to declare the “backward Tracts” as “Excluded areas” and “partially excluded areas”. These are embodied in the Sections 91 and 92 of the above Act, which provide for declaration or modification (Section 91) and administration (Section 92) of excluded and partially excluded areas. This Act repealed Scheduled Districts Act, 1874.

According to this Act, no Act of the Federal Legislature and Provincial Legislature is applicable to the excluded and partially excluded areas unless the governor by public

notification so directs. This had a significant impact on general Acts; each Act or regulation examined before extending to the Scheduled areas. This Act assumes importance regarding Scheduled areas. Because the excluded and partially excluded areas declared under this Act became (more or less) the Fifth and Sixth Scheduled Areas after the Constitution of India came into existence.

### 5.10. Chenchu Settlement Rights through Chenchu Enclosures

Though the British Government notified certain areas as reserved forests in the Nallamala hills of Andhra region in the 1890s, certain rights of the Chenchu tribe living there were acknowledged in favour of them. These were relating to their dwelling, gardening, and grazing of cattle. Certain sites were allowed to them as unreserved enclosures at (the time of) forest settlement for their needs of survival. Those were dwelling sites, cultivation and grazing lands. Thus, Chenchu gudems were acknowledged at the time of settlement enclosures and Chenchu settlement rights were recognized through Chenchu enclosures. Free grazing was allowed for cattle and goats to some extent at settlement. Other rights allowed at settlement include the right of collecting forest produce for domestic purpose. In the case of expansion of cultivation around an existing Chenchu gudem, the occupation of such area in excess of that admitted at settlement was regularised by the grant of an annual rent-free lease. These measures do reflect the recognition of need for favoured treatment for tribals for their settlement rights and appropriate welfare measures much before independence.

It was also reported in the proceedings of the Chief Conservator of Forests (1932) that “[w]ith a view to bring the Chenchus under control by providing them with sufficient food”, forest plantation was started in 1905 that continued till 1917. Special officer for the Chenchus was appointed in 1916 to devise means for the improvement of their condition, to arrange measures for their employment in liaising with Forest Department, among others. When the plantations were given up in 1918, the Chenchus suffered shortage of work. Then Chenchus began to get “out of control”. To bring them “under control by providing with sufficient work”, emergency coupes work (bamboo cutting) in the forest was started in 1919 and continued till 1925. As a result of the special investigation by the Labour Commissioner (T.E. Moir) in 1921 to take effective steps to devise scheme for the Chenchus, the Government came to the conclusion “*[t]hat until more settled habits are developed among the Chenchus the forest Department should take up the responsibility of providing the Chenchus regular and suitable employment, even at a loss, if necessary to the Department*” (emphasis added).

It may also be noted that the development programmes for Chenchus were implemented through the forest department for a long time. The forest department also ran schools for the Chenchus till late 1960s. Then the Government of Andhra Pradesh has sanctioned a post of Reclamation Officer for the Chenchus and the development activities including education were looked after by him. Subsequently, the post was upgraded as District Tribal Welfare Officer and ex-officio PA to Collector. An Integrated Tribal Development Agency for the development of Chenchus was set up at Srisailam in 1989. The District Tribal Welfare Officer, Kurnool has also been entrusted with the responsibilities of Assistant Project Officer of the ITDA. The ITDA has taken action to get the enclosures jointly inspected by the forest, revenue and tribal welfare officials, and the lands have been developed for agriculture. During 1995-2002 the International Fund for Agricultural Development has supported a massive agricultural development activity in those lands.

## 5.11. Repealing of the Criminal Tribes Act and the services of Vennelakanti Raghavaiah

The notorious and brutal act of the Criminal Tribes Act, 1871 subjugated a huge population of tribals living in the plain areas for decades. Sri Vennelakanti Raghavaiah (1897–1981) an eminent lawyer, politician and social worker from Nellore in Andhra Pradesh and a staunch follower of Gandhi had fought for and got the Act repealed. He was instrumental for the establishment of Andhra Rashtra Adimajati Sevak Sangh, for the welfare of the Yanadi, Yerukula, and Sugali tribal communities in the plains. His experience with and knowledge of tribes resulted in the publication of several books. These include: *The Yanadis* (1962), *Nomads* (1968), *Tribes of India* (1969) – published by Bharatiya Adimjati Sevak Sangh, New Delhi; *Tribal Revolts* (1971), *Tribal Justice* (1977) – published by Andhra Rashtra Adimajati Sevak Sangh, Nellore. Amongst them, ‘The Yanadis’ and ‘Tribal Revolts’ are still important reference books. For his social work, he was awarded the Padma Bhushan by the Government of India in 1973. He is remembered primarily for sensitizing the governments in pre and post-independence times on the plight of the tribals who suffered the inhuman provisions of the criminal tribes Act. The Act and the status of the denotified communities is discussed in detail in another unit.

## 6. Nizam Governance, Tribal Revolt and Ameliorative Measures in Telangana Area

### 6.1. Nizam’s Forest Policy and Governance in Tribal Areas Until 1940

After the decline of Mughal Empire, the Telangana region of Hyderabad State came under the reign of Nizams and experienced a different kind of administration for several centuries. In the Telangana region of the Nizam’s Dominion or Hyderabad State, the forest areas, where the majority of tribes lived, were under the control of the Nizam’s Revenue Department. Forests were allowed to exploit through a permit system for commercial purposes. Though a Forest Department was created in 1857 then only 13 species valued for timber were placed under its control, leaving the rest to be managed by the revenue administration. But the Forest Act in 1900 provided the Forest Department exclusive control of forest resources, and also classified the forests into reserved and open categories. With this, the age-old customary rights of tribes in the areas declared as Reserve Forests were abrogated and most of the forest areas became the State property. The reservation of forests, decreed with scant regard for the needs and lives of the forest-based tribes, had begun to encroach on the traditional habitat of such tribes as Gonds, Kolams, Koyas, and Chenchus. For instance, until 1900, the Kolams and Naikpods practised shifting cultivation and the Gonds cultivated light soils on the forest lands of erstwhile Adilabad district without any restrictions in the choice of land for cultivation. Most of such tribes were not conferred any ownership rights. Reserving the forest in such areas rendered many tribes loss of traditional rights and led to forced evictions. In the name of forest conservation, large-scale evictions occurred in the 1920s creating an ambience of unending insecurity, unrest among the tribes, and tribes and State conflicts.

However, until the early 1940s, there were large forest areas where tribals were in relative isolation from more advanced populations in the districts such as Warangal (then included the erstwhile Khammam district), Adilabad and Mahabubnagar. These areas began to shrink and the alienation of tribal land by non-tribals was an ongoing process. And, the Nizam government of Hyderabad State, unlike the adjoining provinces of British India, had not provided any special privileges for tribals until the 1940s. According to Wilfrid V. Grigson, the then Revenue Minister of Hyderabad State, there was neither of

deliberate oppression nor of positive policy from the government. *Laissez-faire* was the governing principle, which had deprived the tribes and turned them into landless. Because, non-tribals as cultivators, contractors, traders, and moneylenders were allowed to exploit the tribals. And tribals suffered from the unchecked exploitation of such advanced populations.

At that time, there were no officials especially concerned with the welfare of the tribes and no legislation protecting tribal interests or providing any special privileges to them comparable to the Agency Tracts Interest and Land Transfer Act, 1917 of the neighbouring Andhra region in Madras Presidency. Hence the position of tribes of Hyderabad State was deteriorated. In such conditions and mainly due to the restriction on forest lands with the forest conservatory boundary, there was unrest among the tribes. Frictions between tribes and forest officials became more frequent. Such a hostility between Gonds and forest officials erupted in a violent clash, which is known as the Gond revolt in 1940.

## 6.2. Gond Revolt in Adilabad in 1940

The Gonds and Kolams in Adilabad district resisted against the Nizam's oppressive forest policy and their officials in early 1940.<sup>3</sup> This confrontation between the tribals and the forest and police authorities was also known as the Kumram Bheem revolt— as this young Gond-man was the central figure of the uprising or Jhoreghat incident— after the locality in which it occurred. Kumram Bheem hails from Sankepalli village near Asifabad. There most of the land had fallen into the hands of Brahmins and Komatis, and Bheem had failed to obtain cultivable land in any other village, though then the Hindu and Muslim newcomers were being granted pattas on large scale. So the Bheem went to Babijheri village, where he lived for 5 years.

When the boundary of the reserve forest was drawn, the inhabitants of Babijheri were directed to evacuate the village. When they did not leave by a deadline, all their houses were burned by forest guards. Then many Kolams and Naikpods dispelled, but the Gonds and a few Kolams were permitted to settle at Jhoreghat. There too the forest officials harassed the tribals for want of money and threatened with a similar fate of the Babijheri if the money demanded was not paid.

Then Bheem sent petition(s) to the forest and revenue authorities requesting and demanding them permission to stay and cultivate at Jhoreghat, and freedom from the exactions of forest subordinates and from plough tax and grazing fees, whose collection had been used as a pretext for all sorts of illegal extorting of cash and provisions. While this was pending, the forest subordinates burnt some outlying hamlets, where some cattle kept in sheds also died. Enraged by this, Gonds opposed such action, which led to a clash between Gonds and forest subordinates. Then Bheem and the Gonds of Jhoreghat decided to resist eviction at any cost. Bheem, who possessed great intelligence and the power of charismatic leadership, was able to give expression to the latent infuriation and exasperation of the Gonds. He succeeded in arousing several hundred tribal men to active resistance against the forest subordinates. Their aims were the undisturbed cultivation of land in and around Jhoreghat, and freedom from the illegal exactions by forest subordinates.

<sup>3</sup> The insurrection was led by Kumram Bheem (22/10/1901 – 8/10/1940). He was referred as Kumra Bhimu by Furer-Haimendorf (1979:548 and 1982:91) and Manohar Rao and Prasad Rao (1982:356), and as Kurma Bhimu by K.S. Singh (1982:x&179). The year of insurrection was 1940 as mentioned by Furer-Haimendorf (1979:547 and 1982:42) and Manohar Rao and Prasad Rao (1982:356), but it was also mentioned as 1941 by V. Raghavaiah (1979:27) and K.S. Singh (1982:x). K.S. Singh mentioned that “Kurma Bhimu demanded a Gond raj in 1941” (Singh 1982:x).

However, the talukdar, head of the district, mounted a police action against Bheem and the Gonds assembled at Jhoreghat. Consequently, the police advanced on the hill where Bheem and his men gathered and fired on the assembled Gonds point blank. Thus, they killed 11 men on the spot and injured many men. This failure to halt the eviction of Gonds from land recently included in the reserved forest demoralised the Gonds for some time, and the forest officials were more overbearing than ever. Whoever would not meet their demands of money was threatened with a fate similar to that of Bheem. However, this “mini-rebellion” indirectly led to changes in government policy.

### **6.3. Changed Concerns of Nizam Government for the Welfare of Tribes from 1942**

The problems of tribes received serious attention from the Nizam government and several ameliorative measures were taken from 1942 as a result of 1) Unrest in tribal areas and Gond and Kolam revolt due to Nizam government’s negligence of tribes and exploitation by advanced caste populations, 2) reports submitted by Christoph von Furer-Haimendorf to the Nizam government on the exploitation and oppression of tribes, and 3) the appointment of Wilfrid V. Grigson (Sir Wilfrid Grigson) as revenue minister in the government of Hyderabad State and the interest shown by Grigson, who was in a key position in so far as tribal policy was concerned, in the conditions in tribal areas of Hyderabad State.

A beginning was made with a creation of Chenchu Reserve in Mahabubnagar district in 1942, later inauguration of a scheme of Gond education in 1943 for the training of Gond teachers and the establishment of special schools for Gonds in Adilabad district. Then the appointment of a special officer for the tribal area of Adilabad, and the allotment of land on permanent tenure to numerous tribals of Gonds and Kolams. These administrative measures were followed by the preparation of a legislation designed to afford protection to tribal populations.

#### **6.3.1. Creation of Chenchu Reserve in Mahabubnagar District**

As per the request of R.M. Grofton, Director-General and Secretary of Revenue Department in Nizam dominion, Dr. Christoph von Furer-Haimendorf prepared an administrative note on Chenchus. After discussions on that note with Furer-Haimendorf and the Inspector-General of forests, Nizam’s government, created and notified a “Chenchu Reserve” in 1942. This Reserve constituted with 1,07,853 acres in Amrabad Forest Reserve of Mahabubnagar district, experimentally for a period of 5 years. According to Grofton, who submitted departmental report pertaining to the notification and rules for the sanction/orders of Government – the aboriginals of the reserve may receive sufficient protection to allow them to live their lives in their own way in the remote forest glades where they have lived from time immemorial. In this Chenchu Reserve, the Chenchus were allowed to collect forest products and hunt with bow and arrow. No outsider was allowed to settle in the Reserve. Fixed scheduled wages were to be paid to Chenchus if they work for the forest contractors.

#### **6.3.2. The Scheme of Gond Education in Adilabad District**

In 1943 in Marlavai village of Adilabad district (now Kumuram Bheem district), a training school for Gond teachers was opened. It began with a small group of literate young Gonds. They were given stipends for the period of their training. This scheme was aimed at bringing

education first in Gondi language within reach of tribal children. Gondi textbooks and primers were composed and supplied to teachers and pupils in free. They made Gonds realize that the government took a constructive interest in their welfare and language and traditional culture as well. Later a second training centre was established at Ginnedhari village in Asifabad taluk of Adilabad. Within a few years, many village schools were opened and staffed with Gond teachers trained in Marlavai and Ginnedhari villages. Most of the Gonds who had since been able to enter government services were the product of those two training centres.

### 6.3.3. Creation of Social Service Department

The Nizam government after recognizing the need for the creation of a special agency for the implementation of new policy for tribals of the State, established a new department known as the Social Service Department. It was attached to the Revenue Department and headed by Christoph von Furer-Haimendorf, then the adviser for tribes and backward classes. This department consisted of a number of gazetted officers, and social service inspectors and organizers. All of them were posted in tribal areas. Existing special tribes officers, who were in the rank of deputy collector and had been drawn from the Revenue Department, were incorporated in the cadre of the Social Service Department. The junior posts of inspectors and organizers were filled by graduates with qualifications in Social Anthropology or Sociology. After gaining experience in administration many of these directly recruited graduates were promoted to gazetted posts and ultimately replaced the special tribes officers drawn from the Revenue Department.

### 6.3.4. Allotment of Land on Permanent Tenure to Numerous Tribals

It was recognized that rights to land were of crucial importance to tribals, who until then had no legal titles to the land they and their forefathers had been cultivating, and who therefore had always been liable to eviction on various pretexts. It was also realized that the tribal rights to land can protect them from the threat of economic enslavement by moneylenders and landlords. The administrative measures and the instructions given to the officers entrusted with the task of looking after the tribal welfare brought about a change in the whole attitude to the tribals. The extortion of illegal fees which lower government officials, such as forest guards or police constables, used to collect from the villagers was stopped or at least greatly reduced, simply by the enforcement of stricter discipline. A great improvement in the situation was soon noticeable. By 1946 the conditions of the Gonds in most parts of Adilabad district had changed. A community which used to be very under-privileged became quickly the “most favoured” tribe in the region.

### 6.3.5. Tribal Areas Regulation 1356 Fasli (1946) and 1359 Fasli (1949)

The culmination of the entire tribal policy of Hyderabad State was the promulgation of an Act, the Hyderabad Tribal Areas Regulation 1356 Fasli in 1946. This regulation enabled the government to notify tribal areas in which members of aboriginal tribes such as Gonds, Kolams, Naikpods, and Pardhans would enjoy important privileges. It empowered the government to make rules considered to be necessary or expedient for the better administration of any notified tribal area in respect of tribals and of their relations with non-tribals. It entrusted all tribal land disputes to tribal panchayats. It prohibited sale or attachment of tribal land and empowered the officials to appoint tribal village officers.

The substance of this regulation was incorporated in the Hyderabad Tribal Areas Regulation 1359 Fasli in 1949 and the rules giving effect to its provisions were issued by the Revenue Department under the title Notified Tribal Areas Rules 1359 Fasli on 16 November 1949. A schedule annexed to the Tribal Areas Regulation described the area to which the Notified Tribal Areas Rules were to apply. These rules of the regulation vested the administration of the Notified Tribal Area in the first *talukdar* (collector) as an agent, in the special social service officer as an assistant agent, and in a *panchayat* to be established by the agent. The most important provisions (rules) applicable to the notified tribal area include:

- Rule 4: The Agent shall be competent to appoint such person or persons as he considers desirable to be members of a Panchayat for such village or villages as he may specify and to entrust to such Panchayat any or all of the duties specified in these Rules.
- Rule 5: No court of law or revenue authority shall have any jurisdiction in any Notified Tribal Area in any dispute relating to land, house or house-site occupied, claimed, rented or possessed by any tribal or from which any tribal may have been evicted whether by process of law or otherwise during a period of one year preceding the notification of such an area as a Notified Tribal Area.
- Rule 8: The Panchayat shall decide all cases in open Durbar in the presence of both the parties and at least three independent witnesses.

#### 6.4. Christoph von Furer-Haimendorf's Association with Hyderabad State

The average officials in Hyderabad State were ignorant of the tribes due to their urban background. Such ignorance tended to blind him to the suffering and the loss of land and economic freedom that resulted in the tribal areas when the non-tribal cultivators, contractors, traders and moneylenders were allowed to exploit the tribals. Therefore, the Nizam Government invited Dr. Christoph von Furer-Haimendorf, Professor of Anthropology, to help Government and its officer to formulate a sound policy for the administration of backward areas and the protection and economic rehabilitation of the tribes. His works among the Chenchus, Hill Reddis, and Gonds were in greatest help to the Government and its officers in the rectification of mistakes and grievances, and the gradual formulation of a new policy on tribes. Besides his anthropological research works, he also submitted reports on tribal problems to the Nizam's government, several of those reports were later published as "Tribal Hyderabad" in 1945. Furer-Haimendorf at the request of Director-General of Revenue Department prepared an administrative note giving his suggestion as to the best means of enabling the Chenchus to survive under modern conditions.

In 1945, he was appointed Advisor to the Nizam's government for Tribes and Backward Classes. He had coordinated various schemes concerned with the tribal problems. He had created a special agency attached to the revenue department and known as Social Service Department. This agency headed by him from its inception until 1949, provided the field staff for much of the tribal welfare work. Some of its officers had received anthropological training. Their activities in Adilabad transformed the relation between the Gonds and government. Their schemes include allocation of land, establishment of schools, organization of cooperative societies and grain banks.

## 7. Some Important Tribal Movements in India

Unfavourable policies of the State(s) and unheeded problems of the tribes led to various tribal movements both peaceful and armed across the country, which in turn forced the respective governments to change their policies towards tribes. Some of such movements are mentioned in the following table.

Movement	Period	Place	Leader	Cause	Impact
Santhal insurrection	1855-56	Santhal Paraganas in Bihar	Sidhu and Kanhu	Against the exploitation by British officials, <i>zamindars</i> , moneylenders, and traders.	A separate district of "Santhal Paraganas" was carved out to pacify the Santhals. The revolt inspired the future tribal struggles against the oppression of Zamindars and moneylenders.
Munda Revolt	1899-1900	Chota nagpur region of Bihar.	Birsa Munda	Against the outsiders ( <i>dikus</i> ) who formed the exploiting classes – land lords, traders/ merchants, contractors, police and other government officials.	The Chhotanagpur Tenancy Act, 1908 was passed that provided some land ownership rights to the people and abolished the bonded labour. The movement inspired the future social, religious and political movements of tribals.
Jharkhand movement (Adivasi Mahasabha and Jharkhand party)	1938-2000	Bihar	Jaipal Singh Munda	Developed in phases from ethnicity to regionalism since 1950. It was for the autonomous state owing to the exploitation of tribals by <i>dikus</i> or non tribals.	The movement ended with the creation of separate State of Jharkhand.
Naxalite movement	1967-1972	Naxalbari in North Bengal	Jangal Santhal, Gundhar Murmu, and Kanu Sanyal	These Naxalite-led tribal unrest/ insurrections were against oppression by landlords, moneylenders and government officials	They exposed the tribal problems and helped shape legislations (to placate the restive tribals) to prevent alienation and restoration of land, abolish bonded labour and liquidate indebtedness. ITDAs were established in sensitive areas to quicken the tempo of development and attend to special needs of the tribals. Two notable features of the administrative arrangements were the flow of institutional credit and improved marketing facility.
Girijan movement	1967-1970	Srikakulam in Andhra Pradesh	Vempata-pu Satyanarayana and Adibhatla Kailasam		

Movement	Period	Place	Leader	Cause	Impact
Dongria Kondh Struggle	2008-2016	Niyamgiri hills, Odisha	Dongria Kondhs	Against the mining in Niyamgiri hills, which are considered sacred by the tribals, and the atrocious treatment of the Dongria Kondhs by Vedanta company and Odisha government.	Mining was cancelled.

## 8. Governance of Tribal Areas in Post-Independence

As already mentioned, the tribal areas in the post-independence are governed as per the provisions in the Constitution of India, which provides the basic framework. However, certain other legislations and regulations that are adopted in course of time also help in the administration and control of tribal areas. In particular, the Fifth and Sixth Schedules to the Constitution provide special provisions for the governance of Scheduled Areas and Tribal Areas of the country. The fifth Schedule provides for administration and control of the Scheduled Areas and Scheduled Tribes in the States having Scheduled Areas. Sixth Schedule provisions for the administration of the Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram.

### 8.1. Constitutional Provisions for Governance in Scheduled Areas

#### 8.1.1. Control of the Union over the Administration of Scheduled Areas and the Welfare of Scheduled Tribes

Article 339(1) of the Constitution provides the President to appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States. Accordingly and in pursuance of the executive power of the Union for giving directions to States over the administration of Scheduled Areas [Article 339(2)] – the first Scheduled Areas and Scheduled Tribes Commission was set up under the chairmanship of U.N. Dhebar (Dhebar Commission) in 1960. The second such Commission was set up under the chairmanship of Dileep Singh Bhuria (Bhuria Commission) in 2002.

The executive power of the Union to give directions to the State: Article 339(2) of the Constitution provisions that the executive power of the Union shall extend to the giving of directions to a State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State.

#### 8.1.2. Provisions under the Fifth Schedule

The provisions as enunciated in the Fifth Schedule for Administration and Control of Scheduled Areas are as follows: (1) The executive power of a State in Scheduled Areas, (2) Report by the Governor to the President regarding the administration of Scheduled Areas, (3) Tribes Advisory Council to advise Governor on matters pertaining to the welfare and advancement of the STs, (4) Direction by Governor through public notification that any particular Act of Parliament or of the State Legislature shall or shall not apply to a Scheduled

Area or any part thereof, (5) Governor to make regulations for the peace and good government (Scheduled Area).

## 8.2. Executive Power of a State in Scheduled Areas

As per the para 2 of the Fifth Schedule, the executive power of a State extends to the Scheduled Areas therein for giving directions and administration of the said areas. Thus, the Constitution of India and its Fifth Schedule provide protection to the tribes living in the Scheduled Areas. Violations of these Constitutional rights in Scheduled Areas in the state of Andhra Pradesh led to a court case and a historic judgment – Samatha Judgment

## 8.3. Governor's Report to the President on the Administration of Scheduled Areas

In accordance with the provisions enunciated in para 3 of the Fifth Schedule to the Constitution, the Governor of each State having Scheduled Areas therein shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Scheduled Areas in that State. Accordingly, the Governors of ten States at present are required to submit the Governor's report every year.

Regarding the submission status of Governor's Report to the President, there is some variation among the ten Scheduled States, as per the data from the Ministry of Tribal Affairs, Government of India. The available data for seven years from 2009-10 to 2015-16 reveals that out of the ten States, Chhattisgarh, Himachal Pradesh and Rajasthan submitted the Governor's reports for all the seven years, Madhya Pradesh and Maharashtra submitted six reports for six years, Gujarat submitted five reports for five years, Jharkhand and Odisha submitted four reports for four years. Andhra Pradesh also submitted two reports for two years between 2009-10 and 2010-11.

## 8.4. Tribes Advisory Council

The Fifth Schedule (para 4) to the Constitution envisages the formation of a Tribes Advisory Council (TAC) at the State as follows. (1) There shall be a Tribes Advisory Council established in each State having Scheduled Areas therein and, if the President so directs, also in any State having Scheduled Tribes but not Scheduled Areas therein. The Tribes Advisory Council shall consist of not more than twenty members of whom three-fourths shall be the representatives of the Scheduled Tribes in the Legislative Assembly of the State. If the number of representatives of the STs in the State's Legislative Assembly is less than the number of seats in the TAC to be filled by such representatives, the remaining seats shall be filled by other members of those tribes. (2) It shall be the duty of the Tribes Advisory Council to advise on such matters pertaining to the welfare and advancement of the Scheduled Tribes in the State as may be referred to them by the Governor.

Accordingly, the Tribes Advisory Councils (TACs) have been constituted in Scheduled Area States of Andhra Pradesh, Chhattisgarh, Gujarat, Jharkhand, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana. Though Tamil Nadu, Uttarakhand and West Bengal do not have any Scheduled Area, they have also constituted TACs.

Regarding the status of meetings of Tribes Advisory Council convened by States, there is variation among the thirteen States, as per the data from the Ministry of Tribal Affairs, Government of India. The available data for five years between 2012-13 and 2016-17 reveals that out of the thirteen States, Chhattisgarh convened for all five years and seven TAC meetings in total, Jharkhand for three years and four meetings in total, Rajasthan for three years and three meetings in total. West Bengal, a State of not having any Scheduled Area, convened three TAC meetings for three years. Gujarat and Odisha each convened two TAC meetings for two years. Uttarakhand, a State of not having any Scheduled Area and whose TAC Rules notified on 19th January 2015, convened two meetings for one year. Andhra Pradesh also convened a TAC meeting for one year. Of course, there are few States, who did not convene any TAC meeting or whose TAC meetings status is not reported yet. The data also reveals that the TACs in some States are either non-existent or are defunct for some years.

#### 8.4.1. Tribes Advisory Council in Andhra Pradesh

The Governor of Andhra Pradesh outlined rules for the constitution of a Tribes Advisory Council (TAC) in Andhra Pradesh. These rules are known as the Andhra Pradesh Tribes Advisory Council Rules, 1958. These rules came into effect from 28-01-1958. The TAC shall consist of 20 members, of whom not less than 15 shall be representatives of the STs in the Andhra Pradesh Legislative Assembly. If the number of representatives of the STs in the Legislative Assembly is less than 15, the remaining seats shall be filled by other members of these tribes. The members of the Council shall be appointed by the Governor by notification in the Andhra Pradesh Gazette. The term of the Council shall ordinarily be three years. The Minister in-charge of the Welfare of Scheduled Tribes shall be the ex-officio Chairman of the Council. The Council shall meet as often as may be necessary and, in any case, not less than twice every year. The objective of the Council is to advise the Governor on matters pertaining to the welfare and advancement of the STs in the State.

**Scheduled Areas in Andhra Pradesh and Telangana** : Visakhapatnam, East Godavari, West Godavari, Adilabad, Srikakulam, Vizianagaram, and Mahboobnagar (only some Mandals are scheduled Mandals).

#### 8.5. Laws Applicable to Scheduled Areas and Powers of the Governor

The para 5 of the Fifth Schedule provides the Governor with the following powers: (1) The Governor may by public notification direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part thereof in the State or shall apply to a Scheduled Area or any part thereof in the State subject to such exceptions and modifications as he may specify in the notification.

(2) The Governor may make regulations for the peace and good government of Scheduled Area. Such regulations may in particular — (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area; (b) regulate the allotment of land to members of the Scheduled Tribes in such area; (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

(3) Regulation making power of the Governor is subject to: (1) No regulation shall be made unless the Governor making the regulation has, in the case where there is a Tribes

Advisory Council for the State, consulted such Council; (2) All regulations made (repeal or amend any law) shall be submitted to the President and, until assented to by him, shall have no effect.

## 9. Peace and Good Governance in Scheduled Areas of Andhra Pradesh

As the Fifth Schedule empowers the Governor to make regulations for the peace and good government in Scheduled Areas, necessary actions have been taken accordingly for tribal empowerment and opportunities in the Scheduled areas of Andhra Pradesh.

### 9.1. Regulations made for the Peace and Good Governance in the Scheduled Areas

Under the provisions of para 5 (2) of the Fifth Schedule, several Regulations were made by the Governor in the State of Andhra Pradesh to protect the interests of Scheduled Tribes in land and protect them from other types of exploitation. Important Regulations and the beneficial provisions made for the tribals are listed out in the following table.

S.No.	Name of the Regulation	Protection Measures Provided for the Scheduled Tribes
1	Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended in 1970 (1/70), 1971, 1978	<ol style="list-style-type: none"> <li>1) Transfer of immovable property situated in the Agency tracts by a member of Scheduled Tribe to a member of Non-Scheduled Tribe and among members of Non-Scheduled Tribes is null and void.</li> <li>2) Where a transfer of immovable property is made in contravention of the above, decree ejectment against any person in possession of the property claiming under transfer, may restore it to the transferor or his heirs.</li> <li>3) No immovable property situated in the Scheduled Area owned by a member of a Scheduled Tribe shall be attached and sold in execution of a money decree against such member.</li> </ol>
2	Andhra Pradesh Muttas (Abolition and Conversion into Ryotwari) Regulation, 1969	<ol style="list-style-type: none"> <li>1) The tribal ryot in possession of landholding for a continuous period of not less than one year immediately before the notified date shall be entitled to ryotwari patta.</li> <li>2) A non-tribal ryot is not entitled to a patta unless he is in lawful possession of any land for a continuous period of 8 years immediately before the notified date.</li> </ol>
3	Andhra Pradesh Mahals (Abolition and Conversion into Ryotwari) Regulation, 1969	<ol style="list-style-type: none"> <li>1) The tribal ryot in lawful possession of land continuously for a period of not less than one year immediately before the notified date shall be entitled to a ryotwari patta to such land.</li> <li>2) If the tenant is non-tribal, unless he is in occupation for a continuous period of not less than 8 years immediately before the notified date, he is not entitled for ryotwari patta.</li> </ol>
4	Andhra Pradesh Scheduled Areas Ryotwari Settlement Regulation, 1970	<ol style="list-style-type: none"> <li>1) After the survey, every ryot in the Scheduled Areas is entitled to a ryotwari patta in respect of all cultivable lands which were properly included in his holding. If the lands are situated in the estates which were taken over by the government under the Andhra (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948, a person who would be entitled to a ryotwari patta under that Act shall be granted a patta.</li> </ol>

S.No.	Name of the Regulation	Protection Measures Provided for the Scheduled Tribes
		2) No ryot who is not a member of the Scheduled Tribes shall be entitled to a ryotwari patta in respect of cultivable land unless-such a person had been in possession or in occupation of the land for a continuous period of not less than eight years immediately before the commencement of this Regulation.
5	Andhra Pradesh (Scheduled Areas) Money Lenders Regulation, 1960	<ol style="list-style-type: none"> <li>1) Money lending in Scheduled Areas without a license is prohibited.</li> <li>2) The moneylender has to renew his license once in a year.</li> <li>3) The Regulation stipulates that interest shall be simple and shall not exceed 12%; if money is advanced against a pledge and if the loan is Rs.25/- or less, the rate of interest chargeable is 9 3/8% per annum, and if the amount is more than Rs.25/- 6 1/4% per annum simple interest.</li> <li>4) Every money lender should maintain account books for loans advanced.</li> </ol>
6	Andhra Pradesh (Scheduled Tribes) Debt Relief Regulation, 1960.	<ol style="list-style-type: none"> <li>1) (a) All interest outstanding on 1-1-1957 on debts incurred before 1-1-1957 shall be deemed to be discharged and only the principal or such portion thereof as may be outstanding may be repayable. (b) Where any member of Scheduled Tribe has paid to any creditor twice the amount of the principal such debt shall be deemed to be wholly discharged. (c) Where the sum repaid falls short of the twice the principal such amount only as would make up shortage shall be repayable.</li> <li>2) On debts incurred on or after 1-1-1957, interest shall be calculated up to the commencement of this Regulation @ 5% per annum simple.</li> <li>3) (a) On debts incurred after commencement of this Regulation, the interest rate shall not exceed 9% per annum simple, if it is secured debt. (b) 12% per annum simple interest, if it is an unsecured debt.</li> </ol>
7	Andhra Pradesh (Scheduled Tribes) Debt Relief Regulation, 1970	<ol style="list-style-type: none"> <li>1) Loans advanced by unlicensed money lenders are null and void and unenforceable in any Court.</li> <li>2) Amount of debt shall be limited to the amount of principal only. Principal or outstanding portion thereof is payable.</li> <li>3) No interest shall be payable.</li> <li>4) Where any member of a Scheduled Tribe has paid to any creditor any amount in excess or equal to the amount of the principal shall be deemed to be wholly discharged.</li> <li>5) Where the sums repaid by way of principal or interest or both fall short of the amount of the principal such amount as would make up the shortage shall be repayable.</li> </ol>
8	Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979	<ol style="list-style-type: none"> <li>1) To protect the tribals from usurious traders; monopoly rights were conferred on Girijan Cooperative Corporation Limited, Visakhapatnam for the purpose of purchase and trade in any minor forest produce.</li> <li>2) The term 'minor forest produce' was defined to mean any forest produce other than timber, trees and charcoal as may be notified by the Government in this behalf.</li> </ol>

Source: Tribal Welfare Department, Government of Andhra Pradesh

## 9.2. Other Legislations that Govern Tribal Areas

Some other important legislations that govern the tribal areas include: (1) the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act); (2) the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; (3) the Biological Diversity Act, 2002; (4) the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Special provisions for STs under this Act). PESA Act is discussed under the local self-governance, and others are discussed in brief elsewhere in the units of – “Land acquisition in tribal areas and Acts of land acquisition” (in this Volume) and “Indigenous knowledge of tribals on forest products and forest bio-resources” (in the Volume-7).

## 9.3. Reservation of Posts in Favour of Local Scheduled Tribes within Scheduled Areas

In exercise of the powers conferred under Para 5(1) of the Fifth Schedule to the Constitution, Governor of Andhra Pradesh made certain notifications reserving the posts in favour of Scheduled Tribes in Scheduled Areas of the State. Thus, 164 categories of posts were reserved for local Scheduled Tribes to protect their interests. Details of posts and Government orders by which the posts are reserved in favour of local STs in the Scheduled area are as listed out in the following table.

S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
1	Adult Education Department	1	Organizer	100	Govt.Memo.No.2421/A&M.2 Dept.2/86-1 Edn. (A&M) Dept. dated 24.7.1987
2	Agriculture Department	1	Carpenter	100	G.O.Ms.No.64 SW(V) Dept. Dated 4-4-1988
		2	Field Assistant		
		3	Laboratory Assistant		
		4	Binders		
		5	Helper		
		6	Chainman		
		7	Ploughman		
		8	Van/Lorry/ Tractor Driver/Cleaner		
		9	Mali/Malan/Sweeper/ Scavenger		
		10	Lady Demonstrator on consolidated pay		
		11	Bid Clerks in Agri.Market Committees		
					12
3	Animal Husbandry Department	1	Live Stock Assistant	100	G.O.Ms.No.64 SW(V) Dept. Dated 4.4.1988
		2	Veterinary Assistant (V.C)		

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S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
		3	Enumerator (V.C)		
		4	Field Assistant		
		5	Laboratory Assistant (Veterinary Assistant)		
		6	Veterinary Vaccinator		
		7	Village Level Worker		
		8	Poultry Maistry (AMPDC)		
		9	Shroof		
		10	Carpenter		
		11	Ministries		
		12	Milk Recorder		
		13	Salesman (In now APSMPDC)		
		14	Pork Salesman (now in APSMPDC)		
		15	Feed Distribution Assistant (in APSMPDC)		
		16	Roneo Operator		
		17	Blacksmith		
		18	Attendant		
		19	Shephard		
		20	Flock man Grade-II		
		21	Cattle Attendant		
		22	Kamati		
		23	Post-mortem Attendant		
		24	Animal Attendant		
		25	Sweeper-cum-Post-Mortem Attendant		
		26	Cleaner		
		27	Plant Attendant		
		28	Grazier		
		29	Milk Vendor		
		30	Dung Oussain (Women)		
		31	Pull-man		
		32	Pull Attendant		
		33	Poultry Attendant		
		34	Poultry Servant		
		35	Flock man Grade-I		
		36	Laboratory Attendant		
		37	Flockmen Grade - III		

S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
4	All Departments	1	Record Assistants	100	G.O.Ms.No.46 SW(V) Dept. dated 4.4.1987
		1	Drivers		G.O.Ms.No.184 SW(V) Dept. dated 27.7.1987
		1	Attenders		G.O.Ms.No.50 SW(V) Dept. dated 5.5.1987
5	Co-operative Department	1	Roneo Operator	100	G.O.Ms.No.64 SW(V) Dept. dated 4.4.1988
		2	Watchman		
6	Education, Panchayat Raj, and Tribal Welfare Departments	1	Teachers including Spl. Teachers, SGBT Teachers and all other Teacher posts	100	G.O.Ms.No.275 SW (E) Dept. dated 05-11-1986.
		1	Teachers (Amendment to G.O.Ms.No.275 SW (E) Dept., dated 5-11-1986).	100	G.O.Ms.No.73 SW (E) Dept. dated 25-04-1988.
		1	Teachers	100	G.O.Ms.No.3 SW(TW/Edn.II) Dept. dated 10.1.2000
7	Excise Department	1	Excise Constables	50	G.O.Ms.No.47 SW(V) Dept. dated 4.4.1987
		1	Kamaty	100	G.O.Ms.No.124 SW (V) Dept. dated 01-07-1988.
		2	Mali		
		3	Scavengers		
8	Fisheries Department	1	Fishery Guard	100	G.O.Ms.No.64 SW(V) Dept. dated 4.4.1988
		2	Petty Yard Officer		
		3	Cold storage Attender		
		4	Watchman		
		5	Chowkidar		
		6	Lascars		
		7	Cleaners		
		8	Cleaners (Fish Farm)		
		9	Cold storage Helper		
		10	Mashalchi		
		11	Gardner		
		12	Aquarium boy		
		13	Sweeper		
		14	Water Supplier		
		15	Mainstry		
9	Forest Department	1	Foresters	50	G.O.Ms.No.93 SW(V) Dept. dated 2.4.1987
		2	Forest Guards	100	

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S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
		3	Forest Watchers		
		4	Malies	100	G.O.Ms.No.261 SW(V) Dept. dated 11.11.1987
		5	Mali-cum-Watchmen		
		6	Sweeper		
		7	Watchmen		
		8	Waterman		
		9	Animal Keeper		
		10	Depot Watchers		
		11	Gatekeeper		
		12	Labourers		
		13	Watcher-cum-worker		
		14	Deer Park Watchers		
		15	Chainman		
10	Forest Development Corporation	1	Assistant Plantation managers (redesignated as D.P.M.),	50	
		2	Plantation Assistant (redesignated as A.P.M.), Junior Supervisors,	100	
		3	Fieldmen,		
		4	Drivers		
		5	Attenders and Watchmen.		
11	Girijan Co-operative Corporation	1	Salesman	100	G.O.Ms. No 215 SW (S) Dept. dated 23.4.1986
		2	Measurer-cum-Watchman		G.O.Ms.62 SW(TW.GCC) Dept. dated 18.10.2011
		3	Junior Managers		
12	Horticulture Department	1	Field Assistant	100	G.O.Ms.No.64 SW(V) Dept. dated 4.4.1988
		2	Malies		
		3	Lab. Assistant		
		4	Messengers		
		5	Watchman		
		6	Sub-Assistant		
13	Medical and Health Department	1	Block Extension Educator	100	G.O.Ms.No.68 SW (V) Dept. dated 16.4.1988
		2	Pharmacist Grade-I		
		3	Staff Nurse		
		4	Medical Demonstrator		
		5	Health Visitors		
		6	Sanitary Inspectors		

S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
		7	Health inspectors (Senior)		
		8	Female Health Supervisor		
		9	Lady Health Visitors		
		10	Non-Medical Demonstrators		
		11	Vocational Instructor		
		12	Family Planning Extension Educator		
		13	Health Inspector (Junior)		
		14	Pharmacist Grade-II/ Pharmacist Supervisor		
		15	Auxiliary NurseMidwives		
		16	Vaccinators		
		17	Basic Healthworker/ Surveillance worker/ Surveillances Inspector Grade-II		
		18	Health Assistant		
		19	Sanitary Inspector (Andhra)		
		20	Dayas		
		21	Post-Mortem Attendant		
		22	Dayas		
		23	Roeneo Operator		
		24	X-Ray Attendant		
		25	Dark Room Attendant		
		26	Ward boys/WardAttendant		
		27	Post –Mortem Boys		
14	Indian Medicine and Homeopathy Department	1	Auxiliary Nursing Mid Wives	100	G.O.Ms.No.68 SW (V) Dept, dated 16.4.1988
		2	Dayas		
		3	Massagist		
		4	Theatre Attender		
		5	Nursing orderlies		
		6	Attendere/Masoum Ourators		
		7	Cooks		
		8	Plough Man		
		9	Sweepers/ Farrash		

S. No.	Name of the Department		Names of the posts reserved for STs	% of reservation	G.O. No. and Date
15	Marketing Department	1	Roneo Operator	100	G.O.Ms.No.64 SW(V) Dept. Dated 4.4.1988
		2	Watchman		
		3	Shroff		
16	Panchayat Raj Department	1	Panchayat Secretaries	100	G.O.Ms.No.145 SW (GCC.1) Dept. dated 29.12.2001.
17	Police Department	1	Police Constables	75	G.O.Ms.No.109 SW(V) Dept. dated 17.6.1988
18	Revenue	1	Village Assistants	100	G.O.Ms.No.272 SW(V) Dept. dated 29.10.1986
19	Sericulture Department	1	Operatives	100	G.O.Ms.No.268 SW(V) Dept. dated 11.12.1987
20	Survey Department	1	Deputy Surveyors	100	G.O.Ms.NO.92 SW(V) Dept. dated 23.4.1987
		2	Chainman		
21	Tribal Welfare Department (in Hostels, Ashram Schools and Residential Schools)	1	Cooks	100	G.O.Ms.No.62 SW(E) Dept. dated 18.3.1987
		2	Kamaties		
		3	Watchmen		
		4	Contingent Employees		
		5	Wardens/Matrons (Hostel Welfare Officers)	90	G.O.Ms.No.63 SW(TW.Ser.III) Dept. dated 3.4.2008
22	Women Development and Child Welfare Department	1	Balwadi Teachers	100	G.O.Ms.No.183 SW(V) Dept. dated 27.7.1987
		2	Anganwadi Workers		
		3	ICDS supervisors		G.O.Ms.No.49 SW(TW.Ser.1.2) Dept. dated 27.7.2011
		4	Nurses		G.O.Ms.No.262 SW(V) Dept. dated 11.11.1987
		5	Sevikas		
		6	Ayahs		
23	AP Power Generation Corporation Ltd.	1	Junior Plant Attendants	100	G.O.Ms.No.97 SW(TW.Edn.) Dept. dated 18.10.2001
		2	Mazdoor		

Source : Tribal Welfare Department, Government of Andhra Pradesh

## 10. Local Self-Governance

Though the local self-governance, sometimes known as decentralized governance, has a long history in India, it was introduced in Indian governance through Constitution (73rd Amendment) Act, 1992. This Act added the “Panchayats” under Part IX of the Constitution. Accordingly, the Panchayats became the “institutions of self-government,” after 43 years of India becoming a republic. Thus local self-government operates at the lowest level of the

society. It enables the people to participate more directly in the governing process and empowers them, who were earlier excluded from the decision-making process. It is close to the people, concerning their specific local needs, priorities and aspirations. It gives control over their lives as they wish and own destiny.

The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act) provides for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas of the country. It devolves power and authority to Gram Sabha and Panchayats (lowest units of the governance), ensures self-governance through Gram Sabha and paves way for participatory democracy in Scheduled Areas. It directs the State government to endow powers and authority to make Gram Sabha and Panchayats function as institutions of local self-governance, specifically on the power to:

- (1) Enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
- (2) The ownership of minor forest produce;
- (3) Prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
- (4) Manage village markets by whatever name called;
- (5) Exercise control over money lending to the Scheduled Tribes;
- (6) Exercise control over institutions and functionaries in all social sectors; and
- (7) Control over local plans and resources for such plans including tribal sub-plans.

The implementation of the PESA or the Andhra Pradesh Panchayat Raj (Amendment) Act, 1998, which was enacted in consonance with the PESA Act (and known as PESA Act of Andhra Pradesh), promotes self-governance, giving a central role to Gram Sabhas. It is vital to safeguard the interests of the people (e.g., community resources, customary modes of dispute resolution, ownership of minor forest produce, etc.) in the Scheduled Areas.

### **A Case on Local Self-Governance: Ban on Sale of Liquor and Control on Consumption of Alcoholic Drinks**

The sale and consumption of liquor/alcohol is one of the major issues in tribal areas nowadays. Though the issue is not new, the gravity of the problem is high today due to various reasons. Though the PESA Act provides to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant, tribes in many areas were unable to handle the problem of liquor/alcohol. However, the Konda Reddis of Vemulakonda village in the Rampachodavaram Agency area, East Godavari district, Andhra Pradesh succeeded in banning the sale of liquor and also controlling the consumption of alcoholic drinks and toddy. People in this village, mainly women, most of whom are happened to be members in self-help groups of the village, joined together and actively participated in this endeavour. Of course, they did not succeed easily in a single attempt. Their struggle started 10 years ago when the distillation and sale of liquor were rampant in the area and the village as well. Then they determined to put a check for this menace as they had some bad experiences with the drunken husbands. They searched for the liquor brewing places around the village in

the forest, destroyed all the liquor and broke all the pots and other containers that were used for liquor brewing. The liquor makers were also warned not to involve in such activity thereafter. The villagers also put a control on the consumption of alcoholic drinks. Nobody was allowed to carry liquor to this village. Of course, they did not put any restriction on drinkers, if they go to other village(s) for a drink. However, the villagers were vigilant on the secret making of liquor. Thus it gradually led to the decline of alcohol sale and consumption. If anyone found selling of liquor, they were fined. Such a case occurred in the December 2017, when a family was found having a little quantity of liquor for sale. The family was fined at a public meeting by the village political organization, which was an informal organization comprised of all the adult members of the village.

In this village, a couple of families involved in selling the toddy of *jeelugu* (*Caryota urens*) mainly during the toddy season. They are also required to pay some amount annually as decided by the villagers at the public meetings every year. The villagers in their meeting also discuss whether to allow the sale of toddy or not for the upcoming season of the year, and how much tax is to be collected from those shops/households, if allowed, for such business. Thus the villagers through their organization regulate the sale and consumption of liquor and toddy. While taking this as an example, the neighbouring villages also banned the sale of liquor to some extent in the recent past and until now. (Source: Author's fieldwork experiences).

## 11. The Last Word

Despite the existence of progressive legislations and policies that ensure democratic, participatory, peace and good governance in tribal areas, tribes still face some problems of poor governance and underdevelopment. Though various tribal movements compelled to initiate some reform measures in the tribal areas, there still exist gaps between expectations and realities. Decentralized governance is still a partial reality in some places. Though the involvement of Gram Sabhas is crucial for certain developmental actions, manufacture of consent of Gram Sabhas also takes place sometimes. There is also a low involvement of people in the Gram Sabha due to lack of any authority in deciding on matters related to them. Therefore, there is a long way to achieve 'good' governance and tribal development in the tribal areas.

## 12. Summary

This unit provides a historical and evolutionary outline of the tribal areas and their governance during pre-colonial, colonial, and post-colonial periods; tribal resistance movements against British government's interference and exploitation through intermediary Zamindars; emergence of a separate system of governance, in the wake of tribal rebellions in the 19<sup>th</sup> century, for predominantly tribal areas marked by special legal provisions and the non-applicability of general laws in these areas; the creation of distinctive tribal spaces in legal-administrative terms, the areas of which are referred as Scheduled Areas and Tribal Areas in the Constitution of India. The unit also precisely delineates the governance of tribal areas during the post-Independence, the emergence of the local self-governance and other regulations or legislations that govern tribal areas.

The majority of the tribal areas of the country are referred as Scheduled Areas and this unit is with specific reference to such areas of Andhra Pradesh. The tribal areas of Andhra Pradesh, in particular, had remained isolated until the end of 19<sup>th</sup> (or beginning of 20<sup>th</sup> century). They were governed by different administrative systems at different periods. They were opened up for non-tribes from the plains particularly during the British regime for various purposes. Earlier some of the tribal lands and areas were occupied and took control by few non-tribals as rulers, Zamindars or intermediary chiefs, through whom the British started ruling in Agency tracts. Other non-tribes to tribal areas include itinerant traders, merchants-cum-moneylenders; forest and other contractors, farmers, and local (village) level officials. The problems from non-tribes and British policies and administration led to tribal revolts, which in turn caused to take suitable/ corrective measures and adopt new policies and legislations.

In Telangana area, the tribes during the Nizam's reign experienced various problems until 1940 due to the ignorance of Nizam government about the tribes and tribal areas and unfavourable forest policies of the State. Such conditions led to a revolt in 1940. Consequently, the tribal grievances were heeded by the government and several ameliorative measures were taken from 1942.

In the post-independence, tribal areas got special provisions in the Indian Constitution under 5<sup>th</sup> and 6<sup>th</sup> Schedules for their protection and governance. The Fifth Schedule provides protections to the tribes through separate legislations for Scheduled Areas, including a special role for the Governor and the institution of Tribes Advisory Council. As per the provisions of the Fifth Schedule for peace and good government in Scheduled Areas, necessary actions were taken in the State of Andhra Pradesh. To protect the interests of tribes there, some regulations were made and many posts were reserved for local tribes. The provisions of the Fifth Schedule have seen further legal and administrative reinforcement in the form of PESA Act 1996.

### 13. Recapitulation

- Where do the tribes inhabit mostly in India?
- What are the different categories of tribal areas in India?
- What are the Fifth Schedule areas?
- What are the Sixth Schedule areas?
- What are the tribes or tribal habitations that are not covered under the Fifth or Sixth Schedules?
- How were the tribes and tribal areas during the pre-colonial period? What was the traditional governance then?
- Why and how the British intruded into tribal areas? How was their governance?
- What was the significance of Scheduled Districts Act, 1874?
- What caused the Rampa rebellion, 1879?
- What ameliorative measures were taken by the British government then?
- Who revolted against the British in the Rampa country and adjoining areas during 1922- 24? Why?

### 30 • Land and Identity Issues in Tribal Areas

- What were the different laws for tribal areas emerged after the Rampa rebellion of 1879 and 1922-24?
- What was the Nizam's forest policy and governance in tribal areas until 1940?
- Why the Gonds and Kolams in Adilabad district revolted against the Nizam's government?
- Why were certain ameliorative measures taken by Nizam government from 1942? What were they?
- Who is Dr. Christoph von Furer-Haimendorf? How he helped the Nizam government?
- What are the important tribal movements in India as per your knowledge and why?
- What are the Constitutional provisions for governance in Scheduled Areas?
- What is the role of the Governor in the administration of Scheduled Areas?
- What is the status of Governor's Report to the President among the Scheduled area States?
- How are the Tribes Advisory Councils constituted? What is the status of TAC meetings?
- What do you know about the Tribes Advisory Council in Andhra Pradesh?
- What are the regulatory powers of the Governor in Scheduled areas?
- What are the various Regulations made for the peace and good governance in the Scheduled areas of Andhra Pradesh?
- Are there any other legislations that govern tribal areas?
- Why are some posts reserved in favour of local Scheduled Tribes within Scheduled areas? What are they?
- What do you know about the local self-governance in Scheduled Areas?

## 14. Key Terms

Tribal outback, Scheduled Areas, Tribal Areas, traditional governance, British intrusion, forest wealth, colonial governance, tribal revolts, Agency laws, Fifth Schedule, Sixth Schedule, local self-governance, PESA Act.

## 15. Activity

- Why did the tribes in India resist and revolt during the British regime?
- What are the measures taken by British to pacify such movements?
- Under the PESA Act, Gram Sabhas are given the power to decide on matters related to them. What are the various roles that the Gram Sabhas can play?
- Do you think that there are a low participation and disinterest of people in the Gram Sabha? If yes, why?
- What strategies can increase the involvement of people in the Gram Sabhas?
- Identify the measures need to be taken to strengthen the Gram Sabhas and empower the people in decision-making process for ensuring local self-governance?

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# 2

## Verifying Tribal Characteristics and Claims of Cultural Affinity for Scheduled Tribe Status

Some time ago, a scam of fake scheduled tribe certificates was unearthed in Maharashtra. About the modality of the fraudsters, Dr. Rajendra Bharud Bharud, the subdivisional magistrate (SDM), Kinwat, said: “The Kolis, who come under OBCs, added a prefix of Mahadeo to claim tribal quota (Mahadeo Koli) while the Mannerwar tribe added “lu” (Mannerwarlu) to do so...” “Our investigation into the tribal villages of Kinwat found that most of these so-called tribals neither speak the tribal language Kolami nor Marathi. They speak Telugu. The Maharashtra government’s report of 1985 also stated how Kolam and Munnarwar differ from each other in surnames, food, culture etc,” Dr Bharud said.

<http://www.dnaindia.com/india/report-over-10-lakh-fake-tribal-certificates-issued-in-state-since-the-70s-218>

- *How do you think enquiry into cultural affinity is important in the issue of S.T Certificates?*
- *Do you think the tribal communities need to safeguard their identity markers? If so, how should they do that when the markers are getting blurred?*

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## 1. Introduction

Special provisions have been provided to the Scheduled Tribes in the Constitution of India, for their development in social, economical, educational and political spheres and to make them part of mainstream of the nation. These include various rights and protections such as reservations in education, employment and services and for positions of elected public representatives from panchayath ward members to members of parliament and those provisions meant for protection to scheduled tribes living in scheduled areas. The mandatory document which makes an individual a member of Scheduled Tribe and eligible for avail of the benefits under the constitutional provisions, is the community certificate issued by the competent authority. This unit intends to provide the functionary working in tribal areas with the knowledge about the tribal situation in the state i.e., who are Scheduled Tribes, how they are notified, their characteristics, the complement authorities to issue the S.T. Community certificates and other related matters.

## 2. Learning Objectives

By reading this unit the functionaries will be knowing about:

- (1) Scheduled tribes of Andhra Pradesh, traditional areas of habitation of major tribes,
- 2) Criteria for inclusion of communities in the list of S.Ts,
- 3) Competent authorities to issue S.T community certificates,
- 4) Various ways by which non-tribals obtain false S.T. Community certificates,
- 5) Procedures/ guidelines for issuing S.T. certificates in different types of claims,
- 6) How the genuineness of S.T status claims and certificates already issued is to be verified.

## 3. What is a Scheduled Tribe?

**3.1.** The term “Scheduled Tribes” first appeared in the Constitution of India in Article 366 (25) wherein it is defined as “Such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution”. Article 342 prescribes the procedure to be followed in the matter of specification of Scheduled Tribes.

### 3.2. Powers of the President of India

Empowered by Clause (1) of Article 342, the President may, with respect to any State or Union Territory and where it is a State, after consultation with the Governor thereof, notify tribes or tribal communities or parts of these as Scheduled Tribes. The confers on the tribe or part of it is a constitutional status invoking the safeguards provided for in the Constitution, to these communities in their respective States/ Union Territories.

### 3.3. Powers of the Parliament

Clause (2) of the Article empowers the Parliament to pass a law to include in or exclude from the list of Scheduled Tribes, any tribe or tribal community or parts of these.

### 3.4. Listing of STs in State or U.T

Thus, the first specification of Scheduled Tribes in relation to a particular State/ Union Territory is by a notified order of the President, after consultation with the State Government concerned. These orders can be modified subsequently only through an Act of Parliament. The above article also provides for listing of Scheduled Tribes State/ Union Territory-wise and not on an all India basis.

### 3.5. Criteria for Specification of STs

The criteria followed for specification of a community as a Scheduled Tribe are:

- Indications of primitive traits,
- Distinctive culture,
- Geographical isolation,
- Shyness of contact with the community at large, and
- Backwardness.

**3.6.** These criteria are not spelt out in the constitution but have become well established by taking into account the definition of Tribe in the 1931 Census, the reports of the first Backward Class Commission (Kalelkar) 1955, the Advisory Committee on Revision of SC/ST lists (Lokur Committee) 1965 and the Joint Committee of parliament on the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1967 (Chanda Committee) 1969. All these criteria may not be found in all communities especially in the present days of possibilities of acculturation with outside population. The shyness of contact may not be found in general but it may be seen among the people inhabiting the interior tribal areas.

### 3.7. Major Tribes of Andhra Pradesh

Andhra Pradesh State has 27.34 lakhs of Scheduled Tribe population after bifurcation in 2014. The major tribal groups exclusive to the Andhra Pradesh are Bagatha, Chenchu, Yanadi, Valmiki. Some of the tribal groups which are common to the neighbouring States are Gond, Kolam, Savara, Khond, Konda Dora, Koya, Lambada, Gadaba, Yerukala and Porja. Among the minor tribal groups which are common to the neighbouring states are Kattunayakan, Bhil and Andh. The tribes of Andhra Pradesh can be classified into two different categories on the basis of their habitat namely (1) the tribes inhabiting the hills and forest tracts and (2) the tribes living in the countryside along with non-tribal populations in the plain villages. Savara, Jatapu, Koya, Konda Reddi, Baagata, Mooka Dora, Manne Dora, Reddi Dora, Porja, Khond, Valmiki, Mali, Goud, Kammara, Naikpod, Thoti, Gond, Kolam, Pardhan, and Andh come under first category. The second category consists of Yerukala, Yanadi and Sugali (Lambada). (For latest list of Scheduled Tribes in A.P, please refer [aptribes.gov.in](http://aptribes.gov.in).)

## 4. Brief History of Tribes and Tribal Areas

When the British extended their governance into the hilly and forest tracts in the early 19th Century, they discovered that inaccessible forest and hill tracts were inhabited by

socially and culturally distinct groups. They had been living in relative geographical isolation and had been walled off from the currents of change from the rest of the country. The British administrators/ Scholars called these groups “tribes” on the analogy of similar groups in America and African continents. There were disturbances in tribal areas of Ganjam, Vizagapatnam and Godavari areas due to interventions of non-tribal Zamindars who were intermediaries in administration of these areas, during later period of 18<sup>th</sup> and early period of 19<sup>th</sup> centuries. On the recommendations of Mr George Russel, First Member, Board of Revenue, who investigated in to the causes of disturbances in Ganjam and other areas, Ganjam and Vizagapatnam Act (before 1839) was promulgated. Under this Act, the operation of general rules was ceased in these areas and it was vested in the District Collector who was designated as ‘Agent’ to the Government and the areas under his direct administration came to be know as ‘Agency Areas’. In 1874 the Scheduled Districts Act was made to extend the special status to the people belonging to hill and forest groups in the “Scheduled Districts” of the British India. Subsequently, special protective laws were made to safeguard the interests of this vulnerable section from land grabbers and money lenders from outside. Under the Agency Tracts Interest and Land Transfer Act, 1917, these groups were termed as “Hill Tribes” and the areas inhabited by them were designated as “Agency Tracts”. Separate set of rules called Agency rules were introduced for the administration of these tracts in 1924. In 1931 the Census Commissioner categorized these people as “Primitive Tribes”, while they were designated as “Backward Tribes”, and their habitat as “Partially Excluded Areas” under the Government of India Act 1935. The Government of Madras issued a list of “Aboriginal Tribes” in the State of Madras for launching ameliorative programmes for these hill and forest living groups. The aboriginal tribes were notified in respect of ‘Agency tracts’ in the then Madras State. The list of Backward Tribes issued under Govt. of India Act, 1935 formed the basis for drawing up the first list of Scheduled Tribes in Independent India under the Constitution. The first list of Scheduled Tribes was issued in the Constitution (Scheduled Tribes) Order, 1950, and the forest and hill living groups notified under the said order are designated as “Scheduled Tribes”, while the areas predominantly inhabited by them are designated as Scheduled Areas under the Scheduled Areas (Part A & B States) Order, 1950. These groups received the attention of Social Workers even before Independence. Social Workers and common people called these groups as ‘Girijanas’ (Hill people) ‘Vanavasis’ (Forest dwellers) and ‘Vanyajatis’ (Forest groups).

From the foregoing discussion it is evident that from the very ancient times till the first list of Scheduled Tribes, the term tribe which is now called Scheduled Tribe was referred to the culturally and socially distinct primitive groups inhabiting the hilly and forest tracts. Various special provisions and extraordinary powers are vested in the Governors of the states under Fifth Schedule to the Constitution of India and series of special laws enacted for the protection of Scheduled Tribes in the Scheduled Areas unmistakably indicate that the founding fathers of Constitution had only the hill and forest tribes inhabiting the hilly and forest areas in their mind while framing the Constitution. It was only in 1956 that the list of Scheduled Tribes was thrown open to rural and plains living tribes. It has since been found that there is a marked difference in the levels of development between the hill and forest tribes and the plains living tribes who become majority due to their large population and resulting in other group becoming a minority and struggle for their existence due to their divergent habitats, more accessibility to acculturation and development programmes.

## 5. Particularly Vulnerable Tribal Groups (PVTGs)

After a review of status of Scheduled Tribes at the end of V Five-year plan period, certain tribal groups were found lagging behind in comparison to others in the fields of education, health and livelihoods. Based on criteria like (a) diminishing or stagnant population, (b) low levels of female literacy and (c) practice of pre-agriculture mode of economy, the following (11) Scheduled Tribes have been recognized as Primitive Tribal Groups who are later called as Particularly Vulnerable Tribal Groups.

- |                 |                  |                  |                |
|-----------------|------------------|------------------|----------------|
| 1) Chenchu      | 2) Konda Reddi   | 3) Kolam         | 4) Bodo Gadaba |
| 5) Bonda Gadaba | 6) Gutob Gadaba  | 7) Dongria Khond | 8) Kutia Khond |
| 9) Khond Porja  | 10) Paengi Porja | 11) Konda Savara |                |

But, while including the sub-tribes among Khonds, Porja and Gadabas, (7) communities are being treated as PVTGs in Andhra Pradesh. Special plan termed “Conservation Cum Development Plan” is being implemented for the development of PVTGs with an additional allotment of funds giving more thrust for their health and educational development.

## 6. Traditional Areas of Habitation of Major Tribes

After bifurcation of Andhra Pradesh and Telangana States, minor changes have been occurred in the list of STs of both states. Thoti community is restricted to Telangana and Mali community to Andhra Pradesh State. Though the rest of the ST Communities are officially recognized as STs in both the states, there are traditional areas of habitation for majority of the communities as detailed below.

Andh, Gond, Naikpod, Kolam, Pardhan are traditionally found in Telangana State and the rest in Andhra Pradesh whereas Sugali or Lambada, Erukula are traditional inhabitants of both the States.

The following Tribes have ST status only in their specified areas of habitation

- 1) Mali - in Andhra Pradesh
- 2) Thoti - in Telangana
- 3) Goudi - in Agency areas
- 4) Nayak - in Agency areas
- 5) Valmiki - in Scheduled Areas of Visakhapatnam, Srikakulam, Vizianagaram, East and West Godavari districts of Andhra Pradesh.
- 6) Dhulia, Paiko, Putiya - in the districts of Visakhapatnam and Vizianagaram

## 7. S.T. Community Certificates

The mandatory document which enables an S.T individual to avail the rights, protection and benefits provided under various provisions of the Constitution is the “Community, Nativity and Date of Birth certificate issued by a Competent Authority.

Earlier to the year 1997, as there were no statutory Acts/ Rules for issuance of Community certificates and different officers/persons in different periods were competent to issue S.T. Community certificates, there were many cases of false certificates and the benefits meant for genuine S.Ts were cornered by ineligible non-tribals. This was the result of lack of proper knowledge among the competent authorities about the Scheduled Tribes, their culture and other related aspects to identify the genuine tribals for issuing Community Certificates.

In this regard, an Act to regulate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes i.e., Andhra Pradesh (SCs, STs & BCs) Regulation of Issue of Community Certificates Act, 1993 (Act No. 16 of 1993)<sup>1</sup> was enacted and to bring its provisions into practice, Rules were issued in G.O. Ms No. 58, Social Welfare (J), department dated 12th May, 1997.

## 8. Competent Authorities to Issue S.T. Community Certificates

All Tahsildars in the state are competent to issue S.T. Community Certificates to the members of 21 S.T. Communities who are ordinary residents of the territorial jurisdiction of their Mandals. But for the remaining 12 Communities all Revenue Officials not below the Rank of R.D.Os, Sub-collector/ Assistant Collector are competent in their territorial jurisdiction of a Revenue Division. (For details please refer the Rules issued in G.O. Ms No. 58 S.W.T. department dated 12.05.1997 read with amendment issued in G.O. Ms No. 122 S.W. (J<sub>2</sub>) department dated 01-09-1997). But in Scheduled areas, Tahsildars are competent for all communities. In this regard, it is important to note that in the areas of I.T.D.As in certain mandals, there will be Scheduled villages as well as non – scheduled villages. In these non- scheduled villages, Tahsildars are competent for 21 communities and R.D.Os/ Sub collectors/ Assistant Collectors are competent for 12 communities. Another clarification on competency is that for those communities who are S.Ts only in Agency or Scheduled Areas (Area restriction imposed in the lists of S.Ts), Tahsildars are competent if their ordinary residence is in Agency or Scheduled Areas; and if they are migrated to places outside Agency Areas, then competency lies with R.D.Os or Sub Collector or Assistant Collectors. In such cases, the guidelines issued by GOI on ‘Migration’ are to be followed. Further, such migrants have to prove that their paternal ancestors were residents of Agency or Scheduled areas in the past and they still have relation/ connection with their relatives in Agency areas i.e., their original area of ordinary residence.

## 9. Ordinary Residence

GOI, Ministry of Home Affairs in circular No. B.C. 12025/2/76 – S.C.T.I dated 22nd March 1997, clarified that the “residence” of a particular person in particular locality is not to be understood in the literal or ordinary sense. It connotes the permanent residence of a person on the date of the notification of the Presidential order scheduling his or her tribe in relation to that locality. In case of persons born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring S.T status is the place of permanent abode of their parents at the time of the notification of the Presidential Order under which they claim to belong to such tribe.

<sup>1</sup> For details of Act, pl refer “The A.P. Gazette Part IV – B – Extraordinary, Wednesday, September 8, 1993.

## 10. Issuance of S.T. Community Certificates

- Every applicant/parent/guardian shall submit an application for issuance of S.T. Community Certificate, to the Competent Authority in Form I prescribed in the Rules well in advance.
- The Competent Authority on receipt of the application shall verify the information and documents/evidence furnished by the applicant/parent/guardian and if satisfied, shall issue the certificate in Form III within 30 days of the receipt of application.
- If not satisfied, he may call the applicant/parent/guardian on notice and conduct an enquiry about the genuineness of their claim with the help of additional information/evidence/documents produced by them. Even after such an enquiry, he may issue certificate or reject the claim. If rejected, he has to record his reasons in writing. If the Competent Authority is not satisfied even after this enquiry, he has to refer the matter to the Chairman of the District Level Scrutiny Committee on whose recommendation, he may issue or reject the Community Certificate. An appeal lies to the District Collector on the decision of the Competent Authority rejecting it.
- The Community Certificate prescribed in Form III is an integrated Community, Nativity and Date of Birth Certificate and is a permanent one.
- Burden of proof lies with the applicant/parent/guardian to prove his/their claim before the competent authority/Scrutiny and Review Committee at District/State Level or the District Collector while conducting an enquiry on their claims of S.T. status.

## 11. District Scrutiny Committee

Consists of Joint Collector, as Chairman, Deputy Director S.W, D.D/ D.T.W.O and D.D. B.C. Welfare, a nominated officer from Tribal Research and Training Institute and an officer from the PCR/vigilance cell in the District as members. District Revenue Officer is the Member Convener.

This Committee after conducting enquires on the cases referred to them submits recommendations to the District Collector or the competent authority.

## 12. State Level Scrutiny and Review Committee

Consists of Principal Secretary to Government, S.W. department as Chairman, three Commissioners of S.W, T.W and B.C. Welfare departments and Inspector General of police CBCID (PCR & Vigilance Cell) as Members, Additional Secretary/ Joint Secretary/ Deputy Secretary to Government, S.W. department as Member Convener. The State Level Committee shall review and monitor the functioning of District Level Scrutiny Committees and also render necessary guidance and advice to Government on cases referred to it. As per the orders issued in G.O Ms No. 57, General Administration Department dated 1-3-2014, under single line administration in Sub-Plan areas, concerned P.Os of ITDAs are designated as District Level Scrutiny Committees for dealing with the cases in sub-plan areas.

### 13. Fraudulent Claims/ False S.T. Community Certificates

Complaints on the genuineness of claims or on certificates already issued are to be filed with the District Collector in whose jurisdiction such certificates are issued. The District Collector, on receipt of such complaints or on suo moto, refers them to the Chairman District Level Scrutiny Committee. After conducting enquiries, the Committee submits their recommendations to the Collector. The Collector, in case the decision of the DLSC is that the claim or the certificate already issued is fraudulent, issues orders for cancellation of the same after duly giving an opportunity to the claimant/ certificate holder to present his case.

### 14. Cancellation

Thus, District Collector concerned is the Competent Authority for cancellation of the fraudulent Community Certificates. The orders of the Collector have to be published in the District Gazette and action is to be initiated for awarding penalties/ punishments to the fraudulent certificate holder and the Competent Authority who issued such certificate.

### 15. Appeal

An appeal against the orders of the District Collector lies with the Government. On receipt of the appeal petition, on prior notice calling for reports from the Collector and conducting a personal hearing, the Minister, T.W. Department (Government) will pass an order either setting aside the appeal petition or orders of the District Collector. This decision of the Government will be issued as a Government order and also to be published in the Gazette. On this, the aggrieved may approach the Hon'ble High Court for a final decision in the matter.

There is also a provision for review on the decision of the District Collector and revision by the Government on the decision/orders passed by any Officer or Authority subordinate to them for satisfying themselves as to the legality, regularity or propriety of such decision or order and they may decide to modify annual or reverse or remit it for reconsideration.

### 16. Powers of Civil Courts

The Competent Authority/ the Appellate Authority/the Scrutiny and Review Committees at District and State Level/Government shall exercise the powers of Civil Courts in summoning the witnesses, receiving evidence on affidavits, summoning and examining any person or documents etc.

### 17. Penalties

Any person who obtained false community certificate on conviction is punishable with rigorous imprisonment for a term not less than 6 months up to 2 years and with a fine of Rs. 1000/- to 5,000/-. Benefits received on the basis of such false certificate shall be liable to be debarred from the educational institutions, discharged from the service forthwith and any other benefits shall be withdrawn, the amounts paid by the Government or any other Agency shall be recovered as an arrear of land revenue; any degree or diploma or other educational Qualification acquired shall also stand cancelled.

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Any person appointed against the vacancy reserved for STs or a person elected for the position reserved for STs in any local authority or cooperative society or a person securing benefit or protection meant for STs under a notification or regulation issued under the Fifth Schedule to the Constitution, on conviction are also punishable with same penalty of imprisonment and fine.

Any Competent Authority who intentionally issues a false Community Certificate is also punishable with same extent of rigorous imprisonment and fine.

## 18. Ways and Means Adopted by Non-Tribals for Obtaining False S.T Community Certificates

### 18.1. Similar Nomenclature

Similarity in the names of certain tribal and non-tribal groups such as Kammara, Goudu, Valmiki, Bagata, Konda Kapu, Konda Reddi (by prefixing the term Konda) is causing confusion to the competent authorities and certain people mislead them and obtain S.T certificates. Many of plains living Kapus and Reddys who have migrated to tribal areas for livelihoods have obtained S.T certificates as Konda Kapus and Konda Reddis.

### 18.2. Similar Occupation

Medara caste people under B.Cs and Yerukulas who are under S.Ts have similar occupation of basket making and by this similarity, there is scope for Medara Caste people to obtain S.T certificates as Yerukulas.

### 18.3. Immigration of Identical Groups

Certain groups who are not notified as S.Ts in neighbouring states of Maharashtra, Karnataka, Odisha and Tamil Nadu such as Lambada, Yerukula, Mali, Goudu are claiming S.T status by migrating to Andhra Pradesh State. For example, Mali, Goudu and Benthooriya are not STs in Odisha. Such people by migrating to border areas of Andhra Pradesh, i.e., Srikakulam, Vizianagaram and Visakhapatnam districts, claim as S.Ts. Similarly, Lambadas who are B.Cs in Maharashtra and S.Cs in Karnataka, migrate to Andhra Pradesh and claim S.T status. Yerukulas who are not S.Ts in Karnataka and Tamil Nadu, on migration to Andhra Pradesh claim S.T status.

### 18.4. Fake Adoption

Certain non-tribal families create a story of giving their children in adoption to a poor, induced tribal family, even create documents authenticating the process of adoption and claim S.T status to the said to be adopted children. But adoption is invalid among S.Ts as per section 2(2) of the Hindu Adoption and Maintenance Act, 1956.

### 18.5. Migration from Places of Area Restriction

Certain people of B.C castes of Gowda and Boya Valmiki in plains areas claim S.T status as belonging to Goudu, Valmiki who are S.Ts only in Agency/ Scheduled areas, by claiming

that they have migrated from such areas long back. But they neither have any evidence of such migration nor any similarity in socio-cultural characteristics of those agency tribes.

## 19. Issuance of S.T. Community Certificates Under Different Types of Claims

### 19.1. S.T Status by Birth

If any person claims S.T. status by Birth, it is to be verified.

- Whether both his parents belong to the same S.T. Community.
- Whether his/her community is recognized as S.T. in the presidential orders as amended from time to time.
- Whether the claimant belongs to our state and the area in which his community is recognized as a Scheduled Tribe and
- Scheduled Tribes may profess any religion i.e., the claimant may belong to any religion.

### 19.2. S.T. Status by Marriage

Any person by marrying an S.T. person will not get S.T. status. Similarly, a person belonging to S.T. community will not lose S.T. status if he or she marries a non-tribal.

### 19.3. Scheduled Tribe Status of the Children of Inter-Caste Marriage

While issuing S.T. Community certificate to the children born to the couples of inter-caste marriage between a tribal and non-tribal spouses, the competent authority shall conduct detailed enquiry to know and satisfy that the marriage of such couple is accepted by the tribal community and the children are brought up as members of that Scheduled Tribe community duly facing the disabilities and disadvantages being experienced by such S.T. communities, as per the guidelines issued in GOI, MOHA Lr. No. 39/37/73 – SCT I dt. 4th March 1975, 21st May 1977 and GOI, MOTA, Letter F. No. 12026/6/2006 – C & MI dated 3rd October 2008.

### 19.4. Scheduled Tribe Status of Migrants

With reference to issuance of S.T. community certificates, the migration is of three types.

- Migration to other areas from the area of their traditional habitation/ residence.
- Migration of communities from the restricted areas in the S.T. lists and
- Migration from the State of nativity or permanent residence to other States.

In case of category (a) above, the competent authorities have to seek the advice of the concerned District Tribal Welfare Officer or the Director, Tribal Cultural Research Institute to know about the Socio-cultural characteristics and accordingly issue or reject the claim. In case of category (b), in the list of Scheduled Tribes, there are communities of Goudu, Nayak and Valmiki who are Scheduled Tribes only in Agency Areas or Scheduled Areas. Mali Community is Scheduled Tribe in Andhra Pradesh only. Likewise, Thoti is Scheduled

Tribe only in Telangana State. In case of claims of such tribal people as migrants to other areas than the restricted areas, the claimants have to show evidences to prove that their ordinary or permanent residence before migration was from the restricted areas, in addition to evidences showing their belongingness to the S.T. communities claimed. Sometimes such migrants produce migration certificates issued by Tahsildars or M.R.Os simply stating that they migrated from so and so village to their present areas of residence without giving any other details. Such certificates cannot be considered as valid documentary evidences. In case of migrants from the native State to other States, they are eligible to secure S.T. community certificate from the concerned competent authority in the migrated state on the production of their or their parent's S.T community certificate issued by the competent authority of their native State. But, they are not eligible to claim constitutional benefits being given by the state of migration. They are eligible for benefits of Central Government. This is so in case, the community claimed is a Scheduled Tribe in both native and migrated states. In some cases, certain communities may be non-tribals in their native state and Scheduled Tribes in migrated states. Banjara or Lambada or Sugali community is a Scheduled Tribe in Andhra Pradesh and Telangana States but is B.C. in Maharashtra and Scheduled Caste in Karnataka. Another point to be kept in mind is that Sugali Community in Andhra Pradesh is recognized as S.T during 1956 and in Telangana during 1976. Sugali and Banjara migrants from Maharashtra and Karnataka to Andhra Pradesh and Telangana States will get S.T status in these States only if they had migrated earlier to that period, respectively. Otherwise, they are to be certified as belonging to B.Cs in Maharashtra and to S.Cs in the Karnataka States.

### 19.5. S.T Status by Adoption

As per Section 2(2) of the Hindu Adoption and Maintenance Act, 1956 (Central Act) nothing contained in the Act shall apply to the members of any Scheduled Tribe. Therefore, a non-tribal cannot claim S.T. Status on the basis of adoption by a Tribal. Such adoption may be for socio-economic or personal reasons but cannot be valid for claiming constitutional benefits meant for S.Ts.

### 19.6. S.T. Status of Illegitimate Children

In case of children born out of invalid marriages, they are to be treated as illegitimate and as belonging to the caste or community of the mother. If the mother is not there, then that of the father is to be applied to illegitimate children. (Vide Annexure – C in the Government of India guideline in Lr. No. 39/37/73 – SC T.I, Ministry of Home Affairs dt. 21st May 1977)

## 20. Enquiry on Genuineness of S.T. Status Claims and False Certificates

In addition to the aforementioned guidelines for issuing S.T. Community certificates in different situations, the genuineness of the claims for issuance or of the S.T. certificate already issued could generally be assessed to a large extent by enquiring to know about the traditional areas of habitation of S.Ts in our State. For example, Savaras, Jatapus are found mainly in Srikakulam and Vizianagaram districts; Konda Doras, Khonds, Bagatas. Valmikas, Kotias, Kammara etc are in Visakhapatnam district; Konda Reddis, Koyas are found in East and West Godavari and Khammam districts; Yanadis, Yerukulas and Sugalis

are found in plains areas of almost all districts; and Chenchus in Nallamala forest areas. Gonds, Kolams, Pardhans, Naikpods are mainly found in Adilabad district of Telangana State. Claims as belonging to Mali in Telangana and Thoti in Andhra Pradesh are doubtful. Similarly, claims as to Valmiki, Naik and Goudu in areas outside Scheduled/ Agency areas are also doubtful. All the Scheduled Tribes have distinct socio, cultural and religious practices of social division into clans, surnames, practice different types of marriages, worship different deities and perform special festivals. They also have traditional Panchayats, with regional commonality. By obtaining genealogical details of paternal and maternal relatives and their spouse, of the claimants for two generations with details of native places, community, clan, surnames, where studied, details of employment, etc. will also give an idea on the genuineness in the claims or certificates already issued.

## 21. Documents to be Verified

By verifying/obtaining the details of caste/community entries in the birth and death registers of the native place of the claimant and other villages of their relatives, School records, such as Admission and withdrawals registers, transfer certificates, voter lists, Registration documents of sale of immovable properties, if employed, caste entries in office records of the close paternal relatives, the genuineness in the claims can be assessed.

## 22. Summary

1. Tribal communities notified by the President of India under Article 342(1) of the constitution are called the 'Scheduled Tribes' and such notification could be modified or amended from time to time only by an Act of parliament made under Article 342(2) of the Constitution. Thus, those tribal communities listed in the latest Scheduled Castes and Scheduled Tribes orders (Amendment) Act – 2002, made by parliament are treated as Scheduled Tribes in the state of Andhra Pradesh. However, this list is slightly modified in the Andhra Pradesh State/ Reorganization Act, 2014 by deleting 'Thoti' community in Andhra Pradesh State. Earlier to this Act of 2002, the Constitution (Scheduled Tribes) order 1950 was amended in the years 1956 for inclusion of Sugali, Yerukula and Yanadi communities and in 1976 when Lambada, Yerukula and Yanadi Communities in Telangana region was also declared as a Scheduled Tribe.
2. During the pre-independence period also, there were various terms denoting the people residing in hilly and forest areas such as Hill Tribes, Primitive Tribes, Aboriginal Tribes, Backward Tribes etc., to extend certain benefits/protection to them and administration of areas of their inhabitation which were termed as Agency tracts, Scheduled Districts and partially excluded areas. Scheduled Tribes in Andhra Pradesh may be broadly categorized into those inhabiting hilly and forest areas and those in rural and plain areas. Certain tribal communities have been declared as PVTGs due to their status of very much lagging behind in development in comparison to other Scheduled Tribes.
3. Special provisions are provided to Scheduled Tribes in the Constitution of India and the mandatory document required to be held by an individual to be treated as belonging to Scheduled Tribe is the Community, Nativity and Date of Birth certificate issued by the concerned competent Authority under the Act of 1993 and Rules issued there under Tahsildars and R.D.Os are the competent authorities in their respective jurisdiction and

competency to issue S.T Community certificates. District Collector is competent to cancel false S.T community certificates and initiate action to impose penalties and punishments on such certificate holders and issuing authorities. District level and State level scrutiny and review committees have been constituted to conduct enquiries and advise collectors and Government respectively on cases of false S.T certificates referred to them.

4. Guidelines/instructions have been issued to competent authorities to issue S.T community certificates under different types of claims i.e., by marriage, by migration, by adoption and status of children of inter-caste marriages, etc. Penalties and punishments will also be imposed on false certificate holders after conviction.

## 23. Recapitulation

- Who are the competent authorities to issue S.T. Certificate?
- What are the ways and means for cancellation of S.T. Certificates?
- What are the salient points to examine in case of any suspicion of fraudulent Scheduled Tribe certificates?

## 24. Key Terms

Scheduled Tribes, Constitutional provisions, Competent authorities, S.T Community certificates – Marriage, Migration, Inter-caste married couples, Adoption, District Level Scrutiny Committee, State Level Scrutiny Committee.

## 25. Activity

- How a Tribe becomes Scheduled Tribe?
- What are the criteria for declaring a community as a Scheduled Tribe?
- Who are the competent Authorities?
- Whether a non-tribal adopted by a Tribal gets S.T status?
- Would a person gets S.T status by marrying a person of Scheduled Tribe Community?
- Whether a person of Lambada caste of Maharashtra or Karnataka is eligible for S.T status in Andhra Pradesh?

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# 3

## Community Resources and Management in Tribal Areas

Savara tribes' men strongly believe that "Savara are those born in rocks, make a living from rocks and die in rocks". Their folk tales too lend support to this belief. It is said, "*kitting* (supreme God) once declared that Savaras will never make a living in ordinary fields". The attachment the Savara feels with *konda* (hill) is not just expressed in certain statements but it is the recurring theme of folk tales. This association is also to be found in the rituals. The picture of a rock, representing a hill, is the most important component of the drawing on the wall made at the time of *aagalu* (ancestor's worship) and certain other ritual performances. The *podu* (shifting) cultivation has become part and parcel of their life. Therefore, the idea of giving up *podu* cultivation means to them, "killing the mother, one who has given birth".

- *How do you think the hills around the Savara settlements are a traditional resource for them? How do you think they have been managing this resource?*
- *Do you think the folktales of a tribe reflect the resources that the members of a tribe value most and manage their resources?*

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## 1. Introduction

Development administrators and practitioners today more often point out to community resources and their effective management in different contexts for effective governance and sustainable development. However, the meaning of many terms used and referred to, in this regard are not always clear. This is because reference is made to resources that are tangible and also to those that are not. Similarly mention of resources already existing and resources that are newly created too come in these discussions. Likewise, confusion also prevails in regard to 'management'. Not only that communities are expected to manage these resources, but manage them efficiently and voluntarily. In regard to management, there is an aspect of structures or institutions created by the communities is one thing and the indigenous knowledge that has accumulated and put to practice is another aspect. This unit is designed to inform the reader about these aspects.

## 2. Learning objectives

After going through this unit, the reader is expected to learn:

- (1) Meanings of community and community resource;
- (2) How resources of community vary from community to community;
- (3) How community resources are managed in tribal communities;
- (4) How traditional resources and new resources differ;
- (5) The concepts of Traditional and Indigenous Knowledge Systems; and
- (6) The issues relating to management of new resources by the community?

## 3. What is a Community?

A community may be conceptualised as members occupying a territory for e.g., Indians. Similarly, members living in specific geographic spaces like village, mandal, district and state may share a sentiment of belonging to one community. A group of members living in a gated community in Gachibowli and owning villas too belong to a "community" as they share a common physical space and are bound by the rules of the registered society (simple unit). In a similar way, members of a 'guda' settlement of the Savara families or 'gumpu' settlement of Yanadi families constitute a community. They come together to make plans for common benefit or may resolve matters that may ultimately help its members. However, in a virtual and globalised world the feeling of community may transcend territorial boundaries. What we need to keep in mind is that a community may be understood as a simple unit as well as a large entity. Say for example one may talk about the Buddhist community that may spread across different nations (transcending territorial boundaries) or a Sugali community comprising members in India and in abroad.

Sometimes, confusion arises on whether a nomadic group like Gujjar tribals in Kashmir and Himachal Pradesh or Manduluvallu found in Chittoor district of Andhra Pradesh are a community or not. This is because, they do not live in one village or *guda* (as do the Savarara) or *gumpu* (as do the Yanadi). Definitely, these nomadic groups are also communities because, even though they do not reside permanently at one place, their territory of operation is always specific and the same territory is used generations after generations.

### What binds a community?

Members belonging to a community come together for a specific purpose, activity or goal or to fulfil certain needs. It is the coming together even as a feeling of belongingness that fosters the idea of a community. Further, the members aim to build stronger bonds amongst themselves. This does not mean that conflicts do not arise. Even if they do there are mechanisms to ensure that a state of imagined harmony is maintained. Communities aim to maintain coherence and a feeling of solidarity that give the group its characteristic.

A community may work towards creating/acquiring resources that may aid in a hindrance free life. Ultimately community resource development has more to do with the quality of life and building a stronger community by members engaging with each other to put resources to the best possible use (Olabode 2013).

## 4. What is a Community Resource?

Community resource is an asset or property or service that may be owned by a community. The resources may be tangible or intangible. It may also entail a service or an asset that may be provided by an external agency to the community.

### How Mugenna and Mangadu are community resources in a certain Chenchu gudem and Savara guda?

Mugenna in a Chenchu gudem is considered as a member who has enormous knowledge and skills relating to wild animals. Members depend on him in case of any possibility of attack of a tiger, to know how they can escape.

In a Savara settlement, only one person by name Mangadu was capable of communicating in Telugu language and he was the only one who could interpret the conversations of the officials who would visit their village. He was the only one to draft petitions for the villagers. Thus they are community resources in their respective villages.

The community resource includes a service to make life better for a community and its individuals. Thus, the doctors available in a city are the resource available to the community living in that city. The magico-religious healers in a tribal society who provide various services to the members of a that community too, are a community resource. Public transportation, crèche, play school, cultural organizations are examples of a community service. Even individuals including you and me are potential community resources as we have a set of skills, knowledge, information, social networks that can contribute to the improvement of the community.

Community resource can be a physical structure or a place too, for e.g., a school, recreation club, hospital, church, library, a club house, community hall, a temple or a place where gatherings are held. For the services of a community resource like that of Mugenna for utilization of a community resource like the community hall in a village, members may have to pay a price or it may be availed free of charge.

## 5. Traditional Resource Vs Newly Acquired Resource

As noted earlier, a community resource is anything that may aid in improving the quality of life of the community and its members. Thus, the traditional tribal Panchayats – Rai Centres- among the Gonds of Adilabad district that meets every month for resolution of disputes is a community resource. The youth dormitories found in several tribes are similarly a community resource as they contribute to the well-being of the community in different ways. A stream, lake or pond in the village is similarly a resource of the community. Assets like a temple, a check dam, a community well are more tangible community resources. We should note that these resources traditionally belonged to the community and may have been passed down through generations. All the above examples are to be treated as traditional resources. These resources are meant to be owned and managed by the community. They should ensure its sustainable use and continuity.

If the government digs a well or constructs a bore well and supplies water through a water tank, as part of development initiative or government scheme to supply water, it is not a traditional resource. In tribal areas formal schools, Primary Health Centres (PHC), bore wells, overhead tanks, metal roads, Public Distributions Shops (PDS) are examples of new resources. Any structure, service or technology provided by government or an NGO which has not been there previously in tribal centres will be categorised as a new resource. These modern facilities bring with it many changes not merely in the infrastructure but also in the cultural value systems of the community. The new interventions or facilities may be accepted or rejected by the community for several cultural, political, and economic reasons.

Traditionally, in tribal societies education and learning is a community-based activity that is informal. Wherein, the child is taught the rules, norms, values systems and activities that are specific to the community by the community elders/members. Youth dormitories (community resources) in some tribal societies are places where a child is taught about the culture of the community. With the growing emphasis on formal education by the Government, schools are constructed and opened for tribal children. These schools are relatively new and are new community resources. These new community resources in many cases replace the traditional institutions of learning within tribal societies. In some cases the formal schools function simultaneously to impart education to children.

### **Youth dormitories in tribal communities**

Youth dormitories are social organisations/youth clubs and institutional structures wherein tribal boys and girls socialise. The youth dormitories for male and females may be separate. They may be known by different names in tribal communities. The Maria people call it ghotul, Nagas call it Morung, Oraons too have youth dormitories. The ghotuls among the Maria are buildings that are well decorated and places where the boys and girls have equal right and obligations. The ghotul serves as a place wherein boys and girls may enter into social and sexual relationships away from the elders of Maria society.. The management of the ghotul and its day to day affairs is done by the elder boys and girls. The elder members are given ranks and duties based on their age. These ranks and duties change with progress in age. All members of the ghotul are equal. Every ghotul has a leader, the leader of the boys is called Sirdar and the girls, Belosa. In all disputes the leaders decision is final. The

leaders are chosen by the members based on the individual's popularity, organising ability and efficiency. In some cases the partner of the Sirdar becomes the leader of the girls. Married men and women are unwelcome in the ghotuls. Besides the function of learning about sexual and social relationships, sexual training and observing sexual etiquette, ghotuls are spaces for education of the young boys and girls. The duty of inculcating manners lies with the gotul officers. Further, dance and games of the Maria are taught in the youth dormitories.

The ghotul members perform public duties, during weddings, they arrange for wood, make leafcups, plates and cook food. It is the duty of the youth to provide entertainment to the guests. The ghotul members provide music and dance at wedding ceremonies. At funerals too the ghotul members perform activities. Maria youth build their character as they learn community values such as cleanliness, hard work, discipline, pride, respecting oneself, other and elders, They also learn the value of community service. The ghotul or youth club is a community resource, wherein the members not only manage the youth dormitories but also provide service to the whole community and manage other resources of the community.

## 6. Do Resources Vary from Community to Community?

Community resources vary from one community to another. The reasons for the variation in resources may depend on historic, ecological, economic and political factors. The resources used by a hunting and gathering community, for example the Chenchus in Andhra Pradesh, will be different from an urban community where people pursue diverse occupations or even another tribal community that depends on settled agriculture. In an urban context, health institutions, factories, business houses, religious institutions, shopping malls, transportation systems, educational institution, etc., all are resources that contribute to the experiences and wellbeing of individuals. The Todas of Nilgiris are traditionally pastoral people. They own buffaloes and depend on its milk and milk products for their survival. The buffaloes are categorised into temple and domestic buffaloes. The community resources of the Todas are the buffalos grazing pastures and the temple buffaloes that are the property of the communities' temples. These animals are used by the priest who occupies the office of the temples. If we compare the Toda pastoral community to the Nats who are acrobatic performing tribe, resources are different. For the Nat community, dependence on settled caste communities is essential. The Nats earn their livelihood by performing tricks, stunts and acrobatic feats for crowds and collect money or food. Their social organisation, livelihood and resource base will differ from each other. Considering a single parameter of community resource i.e., water, both the Toda and Nats the nature of ownership and use varies. In the case of the Toda, water sources are owned by the community. While the Nats being nomadic, moving from one place to another, do not own water resources hence it is not a community resources. The Nats are dependent on other people's resources. The Nats will depend on common water points in villages or cities to access water. The nomadic Nats are familiar with the places they visit and are aware about the availability of resources. The Todas depend on forest streams to access water but to access them they have to have the knowledge about the availability of resources and where the water is clean and can be consumed without causing hazards. An essential feature about tribal communities is their Traditional Knowledge Systems without which

the management and use of resources, either natural or community resources, will be impossible. The traditional community resources are managed by people using their Traditional Knowledge Systems (TKS) that are part of their culture.

## 7. Traditional Knowledge Systems and Management of Resources

Culture for tribal communities work as a guide to help them categorising and utilising natural and community resources. The relationship between resources and people is codified as cultural knowledge. All the information, names of artefacts, plants, animals, ways of doing things, the folk classification of flora and fauna and knowledge pertaining to resources is identified as Traditional Knowledge Systems. The knowledge in some cases may be coded in folk songs, riddles, puzzles and are used as medium for imparting education of the resources. For a hunting and gathering community, the knowledge involved in making a bow and arrow is a knowledge system. Identifying the right kind of plant/tree for the wood, the place where the raw materials can be procured and the process of making the hunting equipment is all encoded in their knowledge systems. Hence, its management and use is encoded in the knowledge system. This cultural knowledge system is also known as traditional knowledge. The knowledge is passed on from one generation to another usually orally and by gaining hands on training by doing activities. In the realm of nature, for tribal and forest-dwelling communities, knowledge becomes Indigenous Knowledge (IK) or Traditional Ecological Knowledge (TEK). TEK encapsulates the perception and worldview of communities and their environment and culture that is local. The body of knowledge gathered from the perspective of people, their categorization of nature, their theories of origin of species and other aspects relating to the natural world is identified by anthropologists and scholars as ethno-science or ethno-botany.

One must hold a strong belief that the knowledge these communities possess is in no way inferior about their resources and lived environment. Tribal communities have cultural specialists who possess specialized knowledge of a particular domain say for example medicine or the plants needed for curing diseases. These specialists are barefoot or grassroots scientists as they are repository of knowledge of the forest and environment. Using certain indicators of the forest, like hoove prints of animals, or observing certain plants or animal calls, blossoming of flowers, tribal members can narrate immensely about the forest and the behavior of animals. The Toda pastoral people of the Nilgiri hills can predict the end of the monsoons by observing certain species of flowers blooming. They can also locate a bee hive by observing the dropping of pollen on leaves of plants. Such is the in-depth knowledge and sensitive observation skills of people living within the context of nature.

In the earlier paragraph we learnt about the ghotuls or youth dormitories. The ghotuls are a community resources. Making a ghotul, its structure requires traditional knowledge of the material required for constructing a physical structure. Its maintenance and management are carried out using the cultural rules and norms by the Muria community. Hence, without the Traditional Knowledge Systems the continuity and management of community resources becomes very difficult. The following paragraphs have more example of community resource management.

## 8. Management of Community Resources in Tribal Communities

The role of community in management of resources is not an unknown feature in tribal societies. For example, from Monika Pellur's fieldwork among the Gonds of Gadiguda, Narnoor Mandal in Adilabad district, Telangana we learn that weekly markets (Santa) on Friday are a common feature. These weekly markets have many stalls to sell products. The activity in the weekly markets results in scattered plastic, paper and other waste materials, thereby dirtying the market. The management of the activities of the market (community resource) is carried out by the Panchayat by employing a person to clean the market every Saturday. This helps clean up the place, maintain cleanliness and manage waste. In the rainy days, the community similarly takes care of the hygiene. Bleaching powder is sprinkled by the ASHA worker in water puddles and water storage tanks in the whole village. The clogged water in drainages is temporarily managed thereby mitigating health outbreaks.

In a tribal village in Adilabad, water sources both for domestic consumption and drinking were very scarce. The drying up of the stream during summer makes their life very hard. On representation to the government, they were sanctioned two hand pumps. Thus the two pumps have become a new community resource and the ones which were very valued. When they started using pumps, they also learned that they often break down. So, soon the community members realized that the hand pumps require some repairs and regular service. Initially, the members managed to raise the funds required for repairs and get the pump repaired by a non-tribal mechanic. As months rolled, they also realized that the repair can be undertaken by them only and that they can cut down cost on maintenance. They required some tools for repairs. So they decided to buy the tools and keep it with them and then onwards. The youth who have learned to repair the pump regularly undertook to repair the pump whenever necessary, without any fees. This is another example of how a resource was managed in a community out of sheer need.

## 9. Role of Tribal Values in Resource Management

The tribal outlook to life is an all-encompassing view. Wherein, the individual members are seen as a part of large cosmos that includes fellow tribal, forests, water bodies, animals, spirits and stars. The ancestors and gods inhabit the world of the individual, they all live in a coherent system. In tribal communities there is a strong sense of community. "Village solidarity is an essential reality and is built up on the basis of shared destinies in an intimate socio-cultural setting. The self and the other are, therefore, not in opposition but part of an essential relationship. The tribal world creatively integrates the individual into the social fabric" (Mahapatra n.d)<sup>2</sup>. Tribal and other indigenous peoples do not aspire to subordinate nature by exploiting it meaninglessly. They recognise their deep connection with nature and knowing that destroying nature is the destruction of oneself. This symbiosis between human and nature is exemplified in the lives of tribes. It is these values that essentially guide the management of resources in tribal communities.

## 10. What Governs the Relationship of Tribals to Nature?

For a tribal person intelligence is necessary but not the basis of life. It is one aspect of life. Intelligence has to be combined with emotion and intuition; this has relevance for action.

<sup>2</sup> <http://ccrtindia.gov.in/readingroom/nscd/ch/ch2.php> accessed on January 6, 2018 at 16:02 PM.

The intuition and emotional aspect gets exemplified in the life of tribal society in the way they view their environment. People are closely related to nature. There is an emotional attachment wherein members are guided by their intuition and indigenous knowledge system. Intuition guides a tribal person when it comes to understanding the behaviour of their environment and their conduct in relation to it. We all may be aware of the popular example of the Andaman Island tribes who survived the Tsunami while lakhs of people living in the coastal areas in different countries died. The knowledge system guides people and their action in relation to their natural and traditional resources. The traditional system in which people operate requires a separate intuition, emotion and knowledge for the community members to act.

### **Management of 'tamarind trees'- a community resource by the Savara**

Savara hamlets (called gudems) in Seethampeta mandal of Srikakulam district live close to forest. Many of their villages are surrounded by many tamarind trees. These trees within the boundaries of each village (boundaries as recognized by the people themselves and not by outsiders or state) belong to the whole village. The Savara however, acknowledge that these trees do not belong to them, but a 'property of the government' or Roads and building department (when trees are on the side of the R & B Road). At the same time they claim right to use these trees in the sense of utilization of fruit. The branches of trees cannot be cut for any use by anyone in the village. Trees recognized as belonging to one village are controlled and managed by the whole Savara village through its traditional political organization. Earlier, the elders used to negotiate with non tribals for sale of a lump sum amount that they required to organize village festivals. The elders also used to set norms to the villagers as well as to the buyers of fruit. For example, the norm to the buyer was that they should not engage anybody other than the ones belonging to that village for plucking of fruit and that the fruit plucked by one should be shared 50:50 between the buyer and seller. The norm for the members who desire to participate in the plucking of fruit is that they should not accept to do the work too much but should give the opportunity to others also to pluck and earn some additional amount. These arrangements are made by the village members to safeguard the trees, keep a vigil on outsiders from destruction of trees and also to take care of health of trees. (Field observations of BV Sharma, personal communication).

## **11. New Resources and their Management by Community**

Culture is a system entailing diverse values for the community. New systems are introduced in tribal communities in the form of development schemes or programmes delivered as community resources such as formal education (school), public health system, modern housing or a community development project etc. These systems come with a new knowledge system and require a new set of emotions, intuition and intelligence for it to find place in the community it has been introduced. In other words, traditional resources such as a forest, traditional occupations, huts, burial grounds, water sources, traditional agricultural practices, health and hygiene practices etc., have cultural meaning for the individuals. The introduction of a, new institution, much like a new technology or a new value system must have cultural meaning for people to become a community resource. For example, solar street lights, check dams, Primary Health Centre (PHC), Child Care Centres, primary and

secondary schools and Over Head water tanks are relatively new community resources for tribal communities. These resources created by 'outsiders' are owned and managed when they see them as part of their social and cultural environment and derive meanings as they do for other existing resources. It is accommodation and conflict between the old (management) and new (resource) that is relevant to make note of if we are trying to understand why the community rejects management of a new resource created. If the new resource created can be managed with the management capabilities that are in place and fit into the traditional structures that are endowed with the responsibility of management of traditional resources, the tribal communities may accept to manage and also perhaps, successfully manage a new resource.

An important feature pertaining to the management of new resources like a school or anganwadi or a health centre revolves around the 'usership' and 'ownership' of the new resources. In the context of the traditional community resources, tribal societies have efficiently use and manage their resources. They have a strong sense of ownership to the resources as it is part of their culture. When it comes to new resources, in most cases the new structures/resources remain abandoned or unattended to by the communities. For example, in tribal schools, the parent of the child attending the school are considered mere users of the school and its resources. There are no incentives or social mechanism developed by the administration to feel a sense of ownership of the new resources. Hence, most of the new resources or structures have no permanent users as the managerial dimension is complicated without a sense of true ownership of the resources.

Old resource	New resource
Youth dormitory	Primary School
Rachabanda	Drinking water hand pump
Pandaga basa (Koya & Kondareddi)	Anganwadi Centre
Jeelugu, tady, and mohua trees within village boundary	LI Scheme
Ethnomedical practitioners (Vejju/Yejju/guruvulu)	Check dam
Traditional birth attendants	Farmers' Cooperative Society
Podu lands (lands for shifting cultivation)	Vana Samrakshan Samithi
Weekly shandy	Watershed project
Community pond	Primary Health Centre
Graveyard	Self Help Groups

## 12. The Clash of Value Systems and Non-Acceptance of New Resources

In the context of tribal communities, when introducing a new technology, the requirements of the people need to be kept in mind. Further, the technology should not create an imbalance between tribal people and their natural resource base. In other words, care should be taken to ensure that the relationship between people and nature is not disturbed.

New resources come with a set of new ideas and values. It has the potential to introduce new meanings or question the existing value systems or the organizational arrangements. For example, if a resource that is created is assumed to produce inequalities or questions the traditional authority of some individuals or denies the privileges that some members of the community enjoy, that new resource is resisted or only passive community support is given in regard to its management. The value system and cultural meaning is old but the new resource or practice may come with a separate set of values or meaning for the community. Hence, in most cases development interventions, either in the form of technological innovations or institutions like a school takes time to be completely accepted by people. In some cases, they may never be accepted by people. The newness of things may never be theoretically understood by people. This does not mean that people in general and tribal people in particular do not adapt to the new resources, institutions or structures. The acceptance or rejection of the new structure, practice, process or innovation depends on multiple factors, though the cultural fit is the most important precondition.

A new resource to be accepted and managed properly by the tribals needs a proper orientation and training before and after a resource is created. For instance when public toilets are constructed, there is need for creation of awareness about hygiene values, the need for motivating towards participatory management for maintenance of cleanliness of the toilets, imparting the skills for efficient management for coordination and supervision etc.

The lack of ownership of civil constructions is particularly seen in tribal areas. This is because the local tribals are not involved in the constructions and as such there is no sentiment developed towards the new resource by the tribals. Thus the construction of school or a health facility or a community facility requires involving in selection of sites, designing, suggestions on use of local resources and participation in terms of labour contribution to generate a feeling of ownership and community sentiment.

Similarly, any effort to create new resource by supplying exotic variety of seeds or animal species without taking into consideration of the agroclimatic conditions in tribal areas will be problematic. If new resource require new management structures which will conflict with the existing institutional arrangements like the traditional council, the use and promotion of new resource becomes challenging.

Acceptance of new resources like school depends on careful evaluation of cultural and language barriers. If tribal children have a strong and active mother tongue, they definitely face difficulty to accept the regional medium of instruction and tend to be non-cooperative to schooling.

#### **Acceptance of a new resource in a Juang village**

In a Juang village, people depended on the running hill stream for drinking water. "Deforestation caused the hill stream to gradually dry up and the community development block dug a well. Initially the Juang villagers were somewhat reluctant to use this new facility. When they eventually tried to draw water with earthen pots a number of them were broken through inexperience and word went round that an evil spirit or Bonga inhabited the well and that it was a sin to have dug up mother earth. It took much persuasion and a physical demonstration of water drawn with aluminium buckets to prove that there were no Bongas. In another village a

resourceful Block Development officer utilized their own value system by offering worship to the Bonga at the site of the well and then demonstrated that thereafter no damage to the buckets occurred. On occasions of sickness, disease, and death, there have often been similar situations of confrontation between the old and the new”.

### **Acceptance of a new resource by the Savara in Andhra Pradesh**

In Seethampetta Mandal, Srikakulam district, the Savaras tribe people are affected by a variety of diseases. The Savara believe that the diseases are caused by spirits. Traditionally it is the magico-religious healer/witch doctor who treats the diseases. The traditional health care system is a community resource that provides service to the Savara people. Given the nature of illnesses and diseases that impact the Savara people, the State Government decided to construct a Primary Health Centre in Tribal village. The authorities decided a place without consulting the village people. The tribal people were not involved in deciding, planning and constructing the PHC.

Upon completion of the PHC, doctors and medical staff were designated to administer health service to the people in the Village. The PHC largely was disowned by the Savara people, as the PHC was constructed in the place where their ancestral and other spirits are believed to abide. This skepticism against the PHC and the medical staff intensified as the deliveries conducted in the PHC in the first fortnight were not successful and infants died soon after the delivery. The Savara people attributed the death of the infants to their ancestral spirits that were angry that the PHC was built in their abode. The authorities decided to rectify the problem and gain the acceptance of Savara for the use of this resource created for their benefit. In consultation with the ritual specialist and the Savara elders, rituals were held to pacify their ancestors. People participated in the ritual and that subsequently resulted in accessing the PHC without fear.

## **13. What may Ease the Acceptance of New Resources?**

- Discussion with the local tribals adequately and if required a series of meetings before introducing new schemes with due consideration to their priorities and difficulty of management etc;
- Since seeing is believing, arranging for exposure visit for some of the members to a successfully running program elsewhere may be very productive;
- Organization of effective training or orientation programs in the village for the entire village community with due consideration of gender sensitivity;
- Involving the community members in planning and execution of the project from beginning to the end with due respect to customary practices relating to inauguration; and
- Handing over of the scheme or assert to the village community after imparting the necessary skills to the members nominated by the village community for management. Ensure least or no interference in the management, but ready guidance whenever it is sought.

## 14. Summary

Tribals have managed their natural and community resources well for generations. It is for us to ponder, if they can manage a huge forest area or natural resources, tap resources for their need with very little dependence on markets, particularly modern ones, it should not be difficult to manage modern structures and institutions introduced by the Government. The reality is that the new community structures and resources do not culturally fit well within tribal societies. The sense of ownership for the new structures is weak. The traditional community resources are managed by people using their Traditional Knowledge systems that are part of their culture. They have been living sustainably in relationship to their environment. In fact their stewardship and management skills point out to their immense knowledge systems that they have of their resources. This being within the world of nature and resources make them excellent protectors and users of resources. There is wisdom in their traditional way of life. The acceptance of new resources and appropriate management by them depends on how best we understood their culture, community structures and our efforts to involve them in the initial stages itself.

## 15. Recapitulation

- What is community? How can we distinguish community and associations for specific purposes?
- How do you we identify different kinds of resources that a community may be possessing at any point of time?
- How do you understand inter-tribal variations in regard to community resources?
- Are the resources for community constant? Do communities add resources?
- When do you think communities can successfully manage new resource added if any by the initiatives of external agencies?

## 16. Key Terms

Community, tribals, resource, knowledge, management

## 17. Activity

- Watch the Hollywood movie *Avatar* (2009), Directed by James Cameron. A good insight into the links between people and their community resources and the deep meaning it holds for them.
- On the basis of your understanding of this unit, identify the community resources for a tribal community in a village you are familiar with. Understand if a new resource introduced in a tribal village has been accepted or rejected. If accepted, how is that being managed and if rejected, why?

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# 4

## Land Ownership, Conflicts and Dispute Resolution in Tribal Communities

“In Chhatarpur district’s Nandora village (in Madhya Pradesh), Rama Kaundar failed to get control over the piece of land he owned in his lifetime. The deceased’s wife, Shahodara Kaundar, told Down To Earth that members of the Patel Community had grabbed her late husband’s land. Her pleas have fallen on deaf ears. When Shahodara approached the patwari, she was told that the piece of land came under the forest land category”.

“Shahodara’s case is not the only instance of land grabbing by powerful upper classes and even by the forest department. In every district across the length and breadth of Madhya Pradesh, one can find at least 10 to 15 tribes whose lands have been captured”.

<http://www.downtoearth.org.in/news/land-grab-forcing-madhya-pradesh-tribals-to-migrate-55152>

- *How do you think the tribals struggle to prove ownership of land enjoyed by them for generations?*

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## 1. Introduction

The concept of private property is relatively new to many tribal societies. The recognition of land as private property has come to them even more recently. Land used for agriculture and other purposes is community owned and managed in many tribal communities. The communal ownership is not appropriately understood in many cases by administrators and the tribals are considered as encroachers. This non-recognition rights of tribals on land results in alienation of their land. Further, the protective legislations for tribals in regard to land are also not consistently honoured. The ignorance of officials in regard to land ownership as well as the rules relating to inheritance of property among the tribes results in unnecessary litigations. This also results in some confusion and conflicts between the tribals and officials when land acquisition is taken up or even when lands are assigned to the tribals for settled agriculture or other purposes. Similarly, officials may also have some misunderstandings when there are conflicts among the tribals themselves on these issues and their interference is felt necessary to resolve such conflicts. Hence it is attempted in this unit to clarify on the issues of private and communal ownership of property among the tribals, its repercussions and the protective laws for tribals. Further, it briefly deals with the role of their traditional Panchayats in land matters.

## 2. Learning Objectives

At the end of the unit you will know about:

- (1) Land under private property and communal property,
- (2) Land alienation among tribal communities,
- (3) Protective land laws for tribals in Andhra Pradesh,
- (4) Recognition of Forest Rights (ROFR) Act of 2006 and recognition of land rights,
- (5) Traditional political organisation and land disputes among the tribes.

## 3. Nature of Property Ownership among Tribes in India

UNDP in its report 2004 stated “the right to own, occupy and use land collectively is inherent in the self-conception of indigenous people and this right is generally vested not in the individual but the local community or the indigenous nation” In the North-Eastern states of India, Jhum or shifting cultivation is a traditional communal land system. It was practised on a large scale but has reduced considerably after many forest laws have been enacted and since this practice has been discouraged by the administration. The nature of ownership of these Jhum lands varies, though they appear to be communally owned. There are lands that the entire tribal village owns, there are also lands that a particular clan that collectively owns and in some cases individual households own the land (Bordoloi 1998 cited in Mathur 2009). In Jhum, cultivation of land is undertaken by individual families and at the same time communally owned individual ownership of property is recognised by the community members. An individual member will have access to the land for Jhum cultivation by being a member of the community. Mathur cites Roy-Burman’s study in Nagaland, wherein if timber is sold from an individual members plot, the traditional village council collects a commission from the buyer for the welfare of the village (Mathur 2009). The collective becomes the context for the individual action. The individual is

enmeshed in the collective and is bound by the norms of the community without curtailing the individual's rights.

#### 4. Land under Private Property and also under Communal Property

There are instances wherein each household in a tribal community may own several plots of Jhum land. Tribes like the Adis, Noktes and Mihomis and their households cultivate a plot while other plots remain fallow. When the productivity of the plots drop, they shift to another plot for the cultivation. The shifting from one plot to another until the cultivator returns to the first plot, takes several years. This continues in an endless cycle of cultivation (Mathur 2009). One can observe the nature of ownership and the relationship to the land. This example also emphasises the requirements of several tracts of Jhum land for the cultivation to be sustainable. Mutual help and a collective solidarity among the Tribes people facilitate the cultivation process. In the North-Eastern states of India there are changes occurring in the nature of ownership of land and property. Due to the constraint on Jhum cultivation, people are resorting to permanent land cultivation resulting in the emergence of private property and new ownership arrangements. This is causing a decline in the pattern of communal ownership and usage of land.

The situation in the case of Tribes in Andhra Pradesh is not very different to what has been stated above. The tribes like Savara, Kondareddi and Koya which are engaged in podu (shifting) cultivation wherein land is communally owned. The village council strictly managed the allocation of land to each family for podu cultivation. The harvest of the crops cultivated by individual families in these plots entirely belonged to them only. However, the trees that gave the minor forest produce like tamarind were considered as belonging to the entire village.

The systems have partially changed. The individual ownership of land appeared when the tribals are granted D form pattas and also when they have taken to horticulture like cashew under the developmental initiatives. In some cases where the irrigation schemes like check dams are provided, the earlier podu lands have been developed into settled agricultural plots by the families of dominant lineages in the villages and private ownership is declared. These changes have led to a stronger notion of private property replacing communal ownership of land.

#### 5. Land Alienation among Tribal Communities

One of the problems that the tribals have been facing is land alienation. Tribal unrest since colonial times has revolved around land issues. Further the land transfer regulations could not achieve the desired outcome due to weak enforcement machinery. Tribals are mortgaging their land to non-tribals as their land remains fallow due to the lack of agricultural inputs and unavailability of easy credit facilities. Land acquisition for developmental projects by government too has added to the problem of land alienation. The forest officials have also without consideration to the traditional use of forest lands by the tribals asserted on the norms of the forest protection and thus denied the tribals the land for cultivation.

The revenue officials who undertake the land acquisition matters often are ignorant of the legal provisions for safeguarding the tribal rights and sometimes wilfully violate the norms. Cases of illegal land transfers of private lands to non-tribals in scheduled areas too are often not recognized by them and so the tribals suffer. Further, land acquisition in tribal areas for projects by revenue officials are turned into litigations due to non-recognition of tribal norms in regard to inheritance of property or land transfers through mutual agreements (oral communication).

## 6. Protective Land Laws for Tribals in Andhra Pradesh

The Governor issued the A.P Scheduled Area Land Transfer Regulation, 1959 (Regulation 1 of 1959) (came into force on 4-3-1959) partially repealing the earlier Agency Tracts Land Transfer Act 1917. This Regulation is to prohibit transfer ("transfer" means sale, lease, mortgage with or without possession, gift, exchange or any dealing with the immovable property in the Scheduled Areas) of lands between tribals and non tribals in the Scheduled Areas without previous sanction of State Government. This was made to regulate the transfer of lands in the scheduled areas of East Godavari, West Godavari, Visakhapatnam and Srikakulam.

In spite of the regulation, as was observed by several committees, the non-tribals were able to find ways and means to circumvent the provisions by entering into benami transactions and other clandestine transactions with tribals ignorant of legal provisions. It is only with a view to maintain peace and to govern the area effectively Regulation 1 of 1970 was passed by the Governor. According to this, non-tribal who validly acquired the title was not to be disturbed, but he is not allowed to sell his land to a nontribal. As if this was done it will inevitably lead to new non-tribal entrants into the Scheduled Area. The basic purpose was to ensure that the land of the tribals should not be frittered away to outsiders by transfer. In the case of a void transaction, the power to restore land to the tribal or his heirs (after evicting the nontribal) was vested with the Government. Until the contrary is proved, any immovable property situated in the Agency tracts and in the possession of a "person" who is not a member of Scheduled Tribe, shall be presumed to have been acquired by such person or his predecessor in possession through a transfer made to him by a member of a Scheduled Tribe. All the Estates, Muttas, Mukhas, Mahals in the Scheduled Areas were abolished and brought under the Ryotwari Settlement Regulations. These Regulations say that no patta shall be granted in respect of land exceeding ten percent gradient. Further, a Settlement Officer has to conduct an enquiry into the nature of all land in respect to which a patta is claimed, to decide in respect of which land the claim shall be allowed and the person entitled to ryotwari settlement patta. These Regulations on one hand ended the feudal system of administration of land but on the other hand opened the floodgates of Scheduled Areas for non-tribals to claim legal rights over tribal land.

It may be mentioned here that under the Land Transfer Regulations 1 of 70, it was legally presumed that unless and until contrary proved, the land in occupation of non-tribals would be deemed to have come from the tribals through a transfer. The Expert Group on Prevention of Alienation of Tribal Land and its Restoration, of the Ministry of Rural Development, Government of India headed by the Planning Commission Member, B. N. Yugandar has also cast a serious doubt on the settlement patta throughout Schedule Five areas. Similarly, the denial of pattas to the tribals is the other side of the coin of

Settlement Pattas, which calls for a scrutiny of the rejection orders (Girglani Commission Report 2005; Committee Report of Ministry of Rural Development, Govt. of AP).

([aptribes.gov.in/tcrti/Pdfs/Land%20Rights%20of%20Adivasis.pdf](http://aptribes.gov.in/tcrti/Pdfs/Land%20Rights%20of%20Adivasis.pdf))

### **Alienation of Tribes from their Land: Bouruwaka Case<sup>1</sup>**

The three mandals of Sankhavarm, Prattipadu and Kotananduru in East-Godavari comprises of forty-nine tribal revenue villages. The Kondakapus, Kondadoras, Valmiki, Kondakammaras and Manyadoras tribal communities live in these mandals. The tribes practice agriculture, collection of non-timbre forest produce (NTFP) i.e., gums, honey, soap nut, tamarind and other produce. The Ryotwari system in 1962 altered the ownership rights of the tribals. Whereby, non-tribal members began acquiring tribal land through malpractices and illegal means. Such practices have been witnessed in Bouruwaka village, Prattipadu mandal, wherein 284.62 acres of government banjar land has become a site of dispute between tribals and non-tribals of Pithapuram and Kakinada. The non-tribals in liaison with officials and erstwhile village officer tampered the revenue records to register the land in their names. The revenue area of the village is 619.17 hectares.

In 1969, the village officer, a revenue inspector and Tahsildar allotted 284.62 acres of poramboke land to 84 assignees, both tribal and non-tribal. The tribal people were not aware of the assigning of the land to non-tribals. Prior to assignment the land belonged to two survey numbers (44.62 & 240 acres). For the purpose of assigning, surveys were done and new numbers were given (120-145). The village Karanam, over a period of time took the D- Form pattas of the tribals and sold the entire land to non-tribals. Based on rallies by the tribals and Upasarpanch, the RDO Peddapuram declared assigning the land to non-tribals was fraudulent. This did not prevent land alienation of land.

Samata, an NGO got hold of a stay order of 1970's and bought the case to the then District Collector and the Project Officer, ITDA, Rampachodavaram, in November 1987. After investigation of how the D-Patta lands were alienated to the non-tribals—“Based on the enquiry report of the Asst. Collector, firstly, the revenue inspector involved in the assignment in 1969, was placed under suspension, and secondly, action was initiated under Section 324 of Act 9/77 against the non-tribals who had acquired the lands by way of sale deeds because, land transfer in Bouruwake was illegal for: “violation of conditions of assignment of D-form pattas”. The high court sent notices to the non-tribals. Notices were sent to the non-tribals who received a stay from the high court for the land.

A caveat was filed in the High Court by the MRO, totally ninety-six families were restored an extent of 204.68 acres. Meanwhile, thirteen non-tribals got a stay order for 98 acres of land and a contempt proceeding was issued on the MRO. Samata played a role in restoring lands to tribals and SC families. Forty three families approached the high court to release the stay. The high court gave a verdict saying, “due to procedural irregularities in the process of restoration, possession with the tribals is illegal. Therefore, give the land back to the non-tribals and restart proceedings” (Justice U.L.e). With this negative judgement, the situation reverted back to its original state except that of the 204 acres, 98 acres only was under dispute.

<sup>1</sup> <http://www.samataindia.org.in/documents/doc-bouruwaka-case-study1.PDF>

Based on the mobilization by Samata, pressure was created to restore the 98 acres to 46 families. A delay was caused because, "...firstly, the district officials (the Collector & Project Officer) who were positively inclined towards the tribals, were transferred and, secondly, the earlier MRO, Prattipadu was fined Rs. 1,500 for contempt of court. The Thirteen non-tribals, got a stay for the second time. Before Samata could approach the High Court for vacation of the Stay, the naxalites of PWG entered the scene and intervened in the issue. This led to a lot of tension and police harassment of the tribals from July 90 to till date. The situation grew worse when the naxals killed the non-tribals landlord of Bouruwaka who had got the Stay order from the High Court. There was utter chaos in the village and this strained situation was taken advantage of by few other non-tribals from the neighbouring plains villages. They colluded with the local police and occupied the lands under dispute". The land matter remains unresolved.

It is also reported that there are cases where the tribal lands are taken under land acquisition but compensation was paid to non tribals because of pending LTR or no compensation was paid since the title deeds are not given under RoFR. The denial or delay of transfer of land to tribals under the Land transfer regulation for various reasons thus benefitted the non-tribals and intensely affected the tribals on all counts.

## 7. Recommendations of Koneru Ranga Rao Land Committee

The Government of Andhra Pradesh constituted a committee under the chairmanship of Sri Koneru Ranga Rao, the Minister for Municipal Administration & Urban Development through a G.O on December 12, 2004. The Committee focused on issues relating to land in the state. The Committee submitted its report on November 17, 2006. The report consisted of 12 chapters containing 104 recommendations. Out of the recommendation, 90 of them were accepted by the Government, while 12 were rejected and two were for further consideration. The committee was:

- to assess the overall implementation of land distribution programmes of the Government,
- to suggest measures for their effective implementation,
- to suggest required changes and amendments to the Acts/Rules for improved enforcement of land related legislations,
- to suggest measures for removal of obstacles in their implementation along with action plan, and
- to monitor the implementation of the Committee's recommendations.

Among the many recommendation made by the committee, the ones relevant to tribal areas are that an assessment of the government land available in the state needs to be carried out. It also suggested that at least one acre of land is to be given to every poor person. The report identified the role of Gram Sabha in approving the allotment of land to landless person who is defined as one not having any land. The maximum allotment of land should not exceed one acre of wet land and two acres of dry land.

The old pattas issued to the non-tribals before 1950 shall be examined in toto and establish its genuineness and whether prior permission of the Collector was obtained to

make these pattas primarily valid. In case there is cultivable land in an uninhabited/deserted village, only tribals can hold and cultivate such land. If non-tribals are holding or cultivating such land, they should be dispossessed and tribals should be put in possession. If no one is cultivating the lands and the lands are cultivable, then either individual tribals or their co-operatives should be assigned the land. Further, all D Form Pattas obtained irregularly, the possessor should be ready to return the land to the government.

## 8. PESA and Legal Rights of Tribes

PESA is an act that recognises the legal rights of tribes to their land and natural resources. These laws have not been put into practise to achieve an effective outcome. The Panchayats Extension to Scheduled Areas (PESA) act of 1996 (<https://tribal.nic.in/actRules/PESA.pdf>) is an important act that recognises the tribal rights over natural resource. The act lacks the vigour in its implementation thereby leaving the aim of communal management a distant dream. Based on the status of PESA, Samatha, an NGO in Andhra Pradesh filed a case on behalf of the tribes that were affected. The Supreme Court of India declared that the forests and lands in Scheduled Areas whether owned by Government or tribal people cannot be leased to non-tribal people or private parties (Mathur 2009). The Samatha Judgement prevents the state from endorsing the diversion of land and natural resources from tribals to non-tribals. However, that this judgment was passed in specific context and that it is applicable to the state of Andhra Pradesh and not necessarily to the entire country is also clarified in another judgement.

## 9. Recognition of Forest Rights (ROFR) Act of 2006 and Recognition of Land Rights

Since the communal ownership of land of tribals living in forests is not legally recognized, these traditional right holders on forest land were termed as “encroachers”. This made the tribals insecure in regard to tenurial rights and access to resources. To address this issue, Parliament enacted FRA 2006, which was notified on 31-12-2007. The Act primarily envisages the protection of Forest Rights of the Scheduled Tribes and Other Traditional Forest Dwellers. Under this act, certain individual rights and community rights are granted. Individual Rights relate to habitation and cultivation for livelihood. Community Rights relate to collection of minor forest produce (MFP), fishing (using water bodies), grazing and Community Forest Resource management (Protection, Conservation & Management for sustainable use).

The Act will apply if Scheduled Tribes had occupied forest land before the 13th December, 2005, In case of ‘Other Traditional Forest Dwellers’, it applies to those who have for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on forest or forest lands for bonafide livelihood needs. The extent granted under this act is the land under occupation or maximum 4 hectare, whichever is less per family as far as individual claims are concerned. For community claims, it is less than one hectare in each case, but should not exceed felling of 75 trees per hectare. The Nodal Agency for operation of this act is Tribal Welfare Department. The operational guidelines are issued vide G.O.Ms.No.102 SW (LTR-1) Dept, dated 06.06.2008.

## 10. Status of Settled Agriculture and Land Ownership among Tribes of Andhra Pradesh

Podu cultivation is on the decline and Tribes are resorting to settled cultivation with due recognition to private ownership of land with improved practices of cultivation. In a study by Siva Prasad (2005), covering nine tribes of united Andhra Pradesh, including Gond, Kolam, Koyas, Savras, Konda Dora, Jatapu, Chenchus, Gadaba and Konda Reddi, it is found that tribals had a multi-dimensional occupational structure, practicing more than one occupation at the same time. Almost all families are engaged in Non-Timber Forest Produce (NTFP) collection during non-agricultural seasons. However, agriculture remains the predominant occupation. However, it is also found that families owned private land of different extents. It is noted that “all these tribal groups are patrilineal and men only own land while one fourth are landless among these tribes”. The landless are found to be more among the Chenchu, Konda Reddi, Gond, Jatapu, Savara and Gadaba. Most of the landed belong to marginal and small farmer categories. Gond and Kolam have higher proportions of land above five acres, though most of it is rain fed.

## 11. Traditional Political Organisation and Resolution of Land Disputes among the Tribes

Panchayats were constituted with the ideal of making them to function as units of self-government, participatory democracy and community control of natural resources. The Gram Sabha is to function to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution. The Panchayats play a role to prevent or restore any tribal lands that have been taken away by tribals and non-tribals unlawfully. Clause 4 (m)(iii) of the Central Act No.40 of 1996 states that every Gram Sabha is endowed with “the power to prevent alienation of land in Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe” (Misra 2005:280). Besides the power given to Gram Sabhas by various Union Acts, States too have passed acts giving Panchyati Raj Institutions (PRI) power to protect land and its alienation, thus slightly diluting the powers of Gramsabha. In Andhra Pradesh, however, the powers to Gramsabha are very much retained. Though constitutional provisions are attempting to strengthen the already existing tribal political institutions that look into matters of disputes and land, the tribal traditional councils have their strong hold on matters pertaining to tribal life.

## 12. Traditional Political Organization Among the Tribals

The traditional political system amongst tribal societies is based on customary laws. It is an institution that deals with governance, law and justice in tribal societies. Though modern institutions like law courts are in place, the relevance of traditional institutions of conflict resolution have not diminished. The areas that traditional councils function are settling disputes amongst families, individuals and at times between villages, administration of justice, maintenance of peace and security in villages and the promotion of general welfare among village members.

The traditional institutions involved in dispute resolution are known by various names in tribal communities. They are known “...as Sadaru among Gadaba, Gotti Sabha or Kula Peddala Koluvu among Konda Reddi, Bhaitak Panchayat among Pahari Korwa,

Kula Panchayat among some of the tribes of Andhra Pradesh, Benudi Ganalam among Lanjia Saura, Ranuka among Saura, Majang among Juang, etc. They have a head known by different names as Peddamanisi, Mukhiya, Mukaddam, Patel, etc., assisted by some functionaries and other members known as Panch, Peddamanusulu, etc. The councils deal with matters relating to land disputes along with others such as theft, elopement, extramarital or illegal sexual relationships, destruction of crops, trespassing by cattle on agricultural fields, common resource conflicts, inter-tribal marriages and divorces.

In some case the Kula Pedda and the Panchayat President come together to resolve conflicts and take collective decisions to affairs pertaining to the village (Sudhanarao et.al. 2016: 962).<sup>2</sup> Amongst the Jatapu people, once a complaint is received by the Kulapedda, the villagers are asked to present at a given place where village meetings are held. Women are permitted to be present at the meetings but at a distance. They are not permitted to participate in the deliberations and meetings. Men are allowed to cross-examine the one who has filed a complaint. The leaders of the council will analyse the dispute in front of the village assembly and the witnesses will be cross examined, before the judgment made. (Siva Prasad 2005).

The traditional panchayat among the Lanjia Savara of Odisha, known as Benudu Ganalam deals with boundary disputes relating to Bagada (land under shifting cultivation) as there is no record of right to land. The Panchayat meets each year before the start of preparing the field and decides the boundary of the fields. The traditional councils also deal with 'illegal' occupation of land, and disputes in regard to share in the landed property.

During the colonial period many tribal communities spearheaded and participated in revolts and social movements against the British rule. The reason for the movements were many. The land revenue settlement led to the expansion of non-tribals into tribal areas and forests. This resulted in the weakening of the egalitarian structure of tribal society as it introduced socio- economic differences. The colonial period led to an increased control of the colonial forest department on forest land and resources there by impacting the tribal communities. Further efforts were made to ban shifting cultivation by tribal communities. The increased access of tribal areas by non-tribals impacted tribals negatively. Many tribal communities ended up as labourers. The introduction of private-property resulted in land becoming a commodity of sale and purchase. These factors led to the exploitation of tribals wherein the need for change was felt. There were many tribal uprisings in various parts of India. They are the Santhal rebellion, Khond uprising, Munds Uprising, Bhils and Khols uprising, Koya rebellion, Tanabhat movement/Oraon Movement, Rampa rebellion, and Chenchu tribal movement. Post 1967, the Naxalite movement grew and gained acceptance in tribal areas. During the Naxal movement one third of the tribes owned land. Tribes were alienated from their lands due to the money lenders and governments restriction on the use of forests and its land. While implementing government regulations officials harassed tribals. These reasons led to dissatisfaction among tribes and thereby contributing to the Naxal movement<sup>3</sup>. These processes have further complicated the issues of land.

<sup>2</sup> An Analytical Ethnographic Analysis of Kondareddi Tribe in India. Particularly Vulnerable Tribal Groups (PVTGs).

<sup>3</sup> [Idsa.in/jds/4\\_2\\_2010\\_NaxaliteMovementinindia\\_rdxit](http://Idsa.in/jds/4_2_2010_NaxaliteMovementinindia_rdxit)

The problem of land rights is most prominent in forest areas and this is impacting the communal nature of land ownership among tribal groups. Acquisition of forest lands for mining, setting up of industries and construction of dams as well as diversion of forest land for biodiversity conservation by declaring protected areas is resulting in the loss of livelihood of communities because the community ownership of lands is not legally recognized. Tribes are being alienated from the lands that once were the base for their livelihood. The communal ownership of land of tribals is severely affected by the forest acts and laws that came into force from time to time. Hence, Tribes are pushed to extreme living conditions. Such situations are resulting in conflicts between tribes and the state. India is witnessing a rising situation of violence upon tribes and agitations by tribes against their loss of traditional lands and community rights over forests and resources. Besides external factors, internal reasons are making the land issues very complex. In many tribal areas land of tribals is being taken away by affluent tribals. The poor tribal members are not protected from the possibility of land alienation from the affluent tribal members. This calls for regulations that will prevent the transfer of land from tribal members in schedule areas to affluent tribal members. Thereby protecting the small and marginal tribal land holders from losing their land and resources and further being pushed to the extreme margins of society.

### 13. Summary

The tribal societies are characterized by the communal ownership of land and other resources. The increased pressure on land and the recognition of private ownership of land by the state has resulted in problems for tribals. The conflicts over land ownership among the members of the tribe, members of different tribes and also between tribals and non-tribals are on an increase. The institutional mechanisms in place for resolution of these conflicts needed a change and adaptation to the changed circumstances. There is need for understanding the role of customary modes of conflict resolution and strengthening it. The hardship that the tribals face when the communal ownership of land and the community rules of inheritance is not recognized by the state when there is need for land acquisition or in the implementation of forest laws and regulations too, requires an empathetic consideration.

### 14. Recapitulation

- What is the nature of land ownership in tribal communities?
- What is implication of communal ownership of land to tribals in terms of their relationship with nature?
- How do you think the concept of private property has entered into tribal societies?
- What are the protective laws in regard to land for tribals?
- How do you understand the spirit of PESA?
- How do you think ROFR Act of 2006 has recognized the communal ownership of land and what would be its implication?

## 15. Key Terms

Land Ownership, Property Ownership, Private Property, Communal Property, Land Alienation, Land Disputes, PESA, ROFR.

## 16. Activity

- Identify the traditional nature of ownership and rules of inheritance among tribes in your region?
- What are the problems faced by these communities pertaining to land and livelihoods?
- Find out if there was any need for Gram Sabha in the tribal villages and find out how it was organized and whether the purpose was served or not? (write a detailed case study of the Gram Sabha)
- What is the role of women in property i.e., land and natural resource base?
- Try and get to know the structure and functioning of the traditional council?
- Gather a Case study pertaining to conflict resolution?

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# 5

## Land Acquisition in Tribal Areas and Acts of Land Acquisition

### Land acquisition in India

“Though only 8.2% of the total population, the Scheduled Tribes (ST) constitute 55% of the people displaced since independence due to the construction of dams, mines, industrial development and the creation of wildlife parks and sanctuaries. Poverty and landlessness is rampant amongst the STs. 51% of all STs are below the poverty line compared to 40.2% for the national average, and 65% of the STs are landless as per the 2011 Census”.

“This, despite the fact that the Fifth and Sixth Schedules of the Indian Constitution carve out a separate legal and administrative framework for certain designated tribal majority areas within the territory of India”.

<http://www.cprindia.org/news/6065>

- *How do you think tribes in India as group enjoyed the benefits of development?*
- *Do you think the tribals and farmers of our country are anti-development? Do you think their protests are genuine?*

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## 1. Introduction

Land is a natural vital resource for human life. Every individual has the right to life, which is guaranteed by the Constitution of India. The right to life includes the right to have land for living and so to earn the livelihood, which is also ensured by certain Indian laws. People's dependency on land assures them in securing their livelihood (unless some environmental crises result in crop failures). Land, for the majority of the people, is not merely the economic resource, but also a symbol of social status and identity, security and self-reliance. And for most of the tribals, their entire worldview, life and livelihood revolve around their land. They cannot imagine their physical and cultural existence apart from it. Such land, however, more often than not, is forcefully acquired in tribal areas for "public purpose" and development. In this context, this unit intends to delineate the practice of land acquisition and regulations of land acquisition in tribal areas.

## 2. Learning Objectives

At the end of this unit, you know about:

- (1) The purposes of land acquisition,
- (2) The problems of land acquisition,
- (3) Legislations used for land acquisition,
- (4) Special legislations in tribal areas that regulate the land acquisition, and
- (5) Measures for protecting the tribals from land dispossession/deprivation.

## 3. Why Land Acquisition?

Land has been at the centre of developmental actions by the State. Acquisition of land, often by force, for the so-called developmental projects and "public purpose" is a major issue in tribal areas. Land in tribal areas is acquired for various projects, and mainly for: (1) infrastructure (construction of irrigation and hydel projects, industrial corridors, transport corridors [roads and railway tracks], and so on), (2) production (establishing industrial plants, manufacturing/processing zones, National Investment and Manufacturing Zones [NIMZs], special economic zones [SEZs], etc.), (3) mining/extraction (minerals and ores, oil and natural gas), (4) biosphere protection/conservation (national parks and wildlife sanctuaries), etc. In other words, land is acquired for projects: irrigation, hydropower, mining, industries, manufacturing/processing zones, wildlife sanctuaries, national parks, roads and railways, establishment of educational institutions, etc. Most of the cases, if not all, entail massive land acquisition.

## 4. Magnitude and Problems of Land Acquisition

There is a high demand for land in tribal areas for development projects, which are considered as one of the main causes of tribal land alienation. The State acquires land in the name of "public purpose" without a compulsory "land for land" provision for rehabilitation of land oustees. Construction of dams and mining activities, among others, have been the most frequent cause of the acquisition of large extents of tribal lands and forced displacement of tribal communities. Creation of National Parks has resulted in the alienation of rights and consequent displacement and forced migration of tribal people. Some other projects also damage the surrounding areas and lands (e.g., environmental pollution, waterlogged) without compensating the affected people for their lands. Development projects will also put pressure on tribal lands leading to their shortage and ethnic conflicts around the lands.

Though the magnitude of the problem of land acquisition in tribal areas is evident from various projects, it can better be understood from the latest, popular and major projects of the Sardar Sarovar (Narmada) and Polavarm projects. The Sardar Sarovar project, which was inaugurated on 17<sup>th</sup> September 2017, and Polavaram project, which is under construction, are considered State's lifeline projects. But, for them, lands were massively acquired affecting/displacing largely the tribals – their lands, livelihoods and habitats. For instance, the Polavaram project is going to submerge 94,357 acres of land, which include the private, public and forest land in the Scheduled Areas, as well as 277 villages.

Though the details of the land acquisition are not maintained at Central level (for State-wise) or State level (for districts), available estimations indicate the magnitude of land acquisition in rural and tribal areas. For instance, the Government of united Andhra Pradesh had acquired about 10-12 lakhs acres of agriculture lands in the name of development projects in 4 years during 2004-08; it had acquired 1.14 lakh acres of private lands between 2004 and 2006 for the on-going irrigation projects, and needed to acquire 43 lakh acres more (as per certain sources). Such massive amount of acquired lands were allotted to the private companies/powerful sections for establishing of industries, special economic zones (SEZs), coastal corridors, mining etc., in addition to acquisitions for constructing irrigation projects by the government. Besides the private lands, public or common lands, on which some of the marginal sections of the society depend for their livelihoods without owning any legal right, were also acquired by the state for allotting to a few powerful sections and their companies. The range of such allotment was from several hundred to thousands of acres each. Such acquisition of lands deprived the livelihoods of mainly land-dependent weaker sections such as marginal, small and medium farmers, landless agricultural labourers, tenants, share-croppers and artisans in rural and tribal areas.

The acquisition of fertile agricultural lands massively for allotting to private companies/industries at the cost of agricultural sector, on which majority of the rural and tribal population depended, in the name of “public purpose” and development, contribute towards the uneven development and as if reviving the age-old landlordism (but a shift from the feudalistic mode of Zamindaris (estates) to capitalistic/corporate mode of industrial/corporate-estates).

Further, there is no controlling or regulating mechanism to judiciously decide of how much land is actually required for establishing industries and SEZs, and whom to allot the lands for setting up of industries and vice versa. This gives a scope of requiring and acquiring massive lands disproportionately to the actual needs. It is because of the shift of land status from the means of livelihood and agriculture production to the source of business development and profit; and subsequently increasing value and demand for lands, besides the demand of land for survival-needs.

However, the “industrial-landlords” have acquired hundreds to thousands of acres of land each in the name of their industries and development. It is not mere possession of huge lands, but deprivation of massive population, displacement of skilled occupations and secured livelihoods towards searching and seeking of new livelihood in the industry or somewhere else, which might be secure or insecure; and getting a shift of their status from self-dependency to dependency on the work-provider. This is clearly visible at several SEZs/industries in Andhra Pradesh, where the landowners became wage labourers due to

their land and livelihood deprivation. Thus, the “neo-landlords” would be getting a strong hold on the region, and control over the life of the land and livelihood deprived and powerless sections.

According to High Level Committee (2014) report, dubious means were used by the State and private entities to lure the landowners or original occupants to part with their land. Land acquisition and alienation are also due to the participation of revenue officials, and incorrect interpretation of the law(s), manipulation of records and permission accorded to alienate land. Balagopal (2007) points out the illegal land acquisition from the Scheduled areas due to bureaucrat connivance and governmental inaction.

High Level Committee (2014) report also says that most State tenancy laws recognize only individually owned registered lands. Community lands are recorded as Government lands in survey and settlement operations and such lands have not been fully surveyed and there is no record of user practices. Since land has become a marketable commodity, its transfer happens both within and outside the tribal community. Forced acquisition of land in tribal areas reflects a form of unequal distribution and alienation of land.

## 5. Evolution of Acts of Land Acquisition

The history of legislations for the acquisition of lands in India began in 1824. The first legislation of land acquisition was the Bengal Regulation I of 1824 enacted by the British government in India. The law applied to the Bengal province to obtain land for roads, canals, and railways. Later the presidencies of Bombay and Madras enacted similar legislations. The first uniform law that had application to the whole of British India was enacted in 1857. After few amendments and replacements, a new Land Acquisition Act 1894 was enacted that was in effect for a long time until the end of the British regime. It was later adopted by the Indian government in 1948.

### 5.1. Land Acquisition Act, 1894

Land acquisition was done until recently mainly by the Land Acquisition Act of 1894 (it was amended various times and mainly in 1984), which was a British legacy, arbitrary, outdated, and where the expression “public purpose” had not been defined. The lack of definition of the term “public purpose” enabled the State to interpret it in the manner it liked. Since the arbitrary Act allowed the State to acquire any land to any extent in the name of “public purpose” without caring for the consent of the owners of the land, there had been a possibility for misusing this Act. It reflected in the recent dominant practice, as the State tried to acquire private lands for allotting, offering or selling these to private individuals, industries, companies, etc., in the name of “public purpose.” That shows the arbitrariness of the State towards the land-holders/owners and the way the obsolete Act helped them in its nefarious designs. Such obsolete Act had been used by the State until the end of 2013.

### 5.2. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

The Land Acquisition Act of 1894/1984 had been replaced by the much sought after law called, “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation

and Resettlement Act, 2013” (hereafter RFCTLARR Act, 2013), which commenced from 1<sup>st</sup> January 2014. As a result of this legislation, the Government can no longer acquire private land with impunity for “public purpose”. If the land is required for private companies for a “public purpose” (i.e., useful to the general public), the requiring private company, or body of individuals, has to purchase directly from the landowners to the extent of at least 80% of those affected families. If the remaining twenty percent of the total area of land required for the project is yet to be acquired, then only the respective government can intervene to use the RFCTLARR Act 2013 for the involuntary acquisition.

RFCTLARR Act, 2013 says that there shall be the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition. The Act also ensures that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status. According to the Act, consultation with institutions of local self-government (panchayats) and Gram Sabhas established under the Constitution is essential for a humane, participative, informed and transparent process for land acquisition for development projects.

### 5.2.1. Special Provisions for STs under RFCTLARR Act, 2013

The RFCTLARR Act, 2013 provides some special provisions for the Scheduled Tribes. These include:

- 1) As far as possible, no acquisition of land shall be made in the Scheduled Areas.
- 2) No land shall be transferred by way of acquisition in the Scheduled Areas in contravention of any law (including any order or judgment of a court which has become final) relating to land transfer prevailing in such Scheduled Areas.
- 3) If land acquisition in Scheduled Areas takes place it shall be done only as a demonstrable last resort.
- 4) For acquisition (or alienation) of any land in the Scheduled Areas, prior consent of the concerned Gram Sabha or the Panchayats in Scheduled Areas (under the Fifth Schedule to the Constitution) shall be obtained in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act, or any other Central Act or a State Act for the time being in force.
- 5) In case of a project involving land acquisition on behalf of a Requiring Body which involves involuntary displacement of the Scheduled Tribes (or Scheduled Castes) families, a Development Plan shall be prepared laying down the details of procedure for settling land rights due, but not settled and restoring titles of the Scheduled Tribes (as well as the Scheduled Castes) on the alienated land by undertaking a special drive together with land acquisition.
- 6) In case of land being acquired from members of the Scheduled Tribes or the Scheduled Castes, at least one-third of the compensation amount due shall be paid to the affected families initially as the first instalment and the rest shall be paid after taking over of the possession of the land.

**RFCTLARR Act, 2013** requires prior consent of the Gram Sabha for the acquisition of any land in Scheduled Areas, where such acquisition is the last resort.

## 6. Special Legislations in Tribal Areas and Land Acquisition

This section will explain how certain special legislations in tribal areas regulate the acquisition of lands there. These include: 1) Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1970; 2) Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; and 3) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

### 6.1. Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1970

The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1970 (APLTR 1970) is also known as land transfer regulation 1 of 1970 or LTR 1/70 or 1/70 Act. It was to amend the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, which was amended also in 1971 and 1978. As per the regulation of 1970, section 3(1) (a): [A]ny transfer of immovable property [includes land, standing crops, timber and trees] situated in the Agency tracts by a person, whether or not such person is a member of a Schedule Tribe, shall be absolutely null and void, unless such transfer is made in favour of person, who is a member of a Schedule Tribe or a society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 which is composed solely of members of the Scheduled Tribes.

#### Samatha Judgment

The Samatha judgment delivered by the Supreme Court in 1997 (in the context of the State of Andhra Pradesh), which was a landmark in the history of land acquisition, upholds and protects the land rights of STs in Scheduled Areas. It prohibits any transfer of private or Government's land in Scheduled Areas to the non-tribals (including leases to private [mining] industries, who are non-tribals). The judgement states that "the minerals [*in these areas*] could be exploited...by the tribals themselves, either individually or through Cooperative Societies...with the financial assistance of the State". The judgement also says that every Gram Sabha should prevent alienation of land.

### 6.2. Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

According to the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA Act 1996) [Section 4 (i)], the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.

PESA Act 1996 [Section 4 (d)] provides that "every Gram Sabha shall be competent to safeguard and preserve....community resources". The Act [Section 4(m) (iii)] entrusts the

Gram Panchayats, “the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe”.

### 6.3. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA 2006) recognizes and vests the forest rights and occupation in forest land in forest dwelling Scheduled Tribes. It recognizes the necessity to address the long-standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes including those who were forced to relocate their dwelling due to State development interventions. But even after a decade of its enactment, there is not much progress in the process of recognizing rights of the Scheduled Tribes and so their land rights are not vested with them completely. Further, the rights the Act confers are the utilitarian in nature but not the proprietary rights. However, the Act will also be the legal basis for compensation in case of diversion of forest lands for development projects. The Act [Section 4(5)] provides that “no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure [for settlement of forest rights] is complete.”

#### Gram Sabha

- **PESA Act 1996:** The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas.
- **RFCTLARR Act 2013:** Prior consent of the concerned Gram Sabha or the Panchayats in Scheduled Areas shall be obtained in all cases of land acquisition in such areas.

## 7. Measures to Protect the Interests of Tribals and Their Lands

For the protection of interests of tribals and their lands, certain measures are required. Some of them are as follows.

- As directed in the Samatha judgment and in pursuance of the PESA Act, Gram Sabhas are to be empowered to prevent alienation of tribal land and minerals should be exploited by tribals themselves through Cooperative Societies, the formation of which is facilitated by the State. The stringent provision of the amended Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959/1970 that facilitates the formation of Registered Scheduled Tribe Co-operative Societies, which could take up mining activities in Scheduled Areas, should be followed and may be adopted by other States as well.
- Protect the interests of tribals and their lands under the provisions of the PESA Act and the Samatha judgment.
- Disallow acquisition by a non-tribal, including private companies in Scheduled Areas, and safeguard tribal land and community resources.
- If one wants the development of the region (opening of markets and opportunities), decentralized empowerment becomes imperative for tribals,

particularly at the Gram Sabha/Panchayat level. The process of land acquisition should be democratic and rights of tribal communities to say 'no' to the acquisition of their land and to access and manage forests and other common property resources, be recognized.

- In pursuance of the RFCTLARR Act 2013 and the draft National Tribal Policy 2006, there is a need for minimizing of acquisition of land and resources in tribal areas. In the interest of tribals, there shall be a threshold of lands acquired for a project for keeping the effect minimum, and the land-to-land provision under resettlement and rehabilitation of the new Act 2013 should apply to all the project affected people. And unused land should be returned to the loser of the land and to the community.
- In the acquisition process, there is a need to choose the unused lands of the State or the uncultivable lands (waste) of the common public. Particularly industries and certain infrastructure facilities can be established on any land including the unused/waste lands, which are not suitable for cultivation. If such lands are preferred, there would not be any problem to anybody. Apart from that, the industry/company/development agency would get name and fame for using and developing wastelands. Also, the public would not lose its cultivable land and source of livelihood. Thus, the real development starts from the selection of their sites. Since the agricultural lands contribute to the food production for the local people, region, State and the country, can one term establishing an industry on such lands, which leads to reducing the land for food production, real development?
- Forest rights have been covered under the FRA 2006, but other common property resources (CPRs) such as Government land and Panchayat land have not been covered by any legislation. This needs to be addressed, as there is a chance of depriving people of such lands without any compensation.
- State Governments should be proactive to ensure that all officials and lower-level functionaries do not connive in defrauding tribal people of their land. Regular monitoring at the ITDA, District, State and Central levels of disposal of cases and proactive efforts for restoration of tribal land is required, if the acquisition ignored the due process of law.

### 7.1. Land for Land

Getting a secure livelihood is more important for the farmers than the amounts offered to them as compensation. No wonder, most farmers are reluctant to give up their lands. Even when the farmers have no other option, they prefer to be given suitable agricultural lands elsewhere. Unfortunately, in most cases if not all, the authorities that acquired the lands did not offer land-based compensation (compensation in the form of alternative land).

However, according to RFCTLARR Act, 2013, in every project those persons losing land and belonging to the Scheduled Tribes or the Scheduled Castes will be provided land equivalent to land acquired or two and one-half acres, whichever is lower.

### Cases on Land-to-land Compensation

Though the land for land compensation rarely takes place in the R&R policy implementation, it is not impossible. A couple of projects in Andhra Pradesh – Surampalem Reservoir Project and Polavaram project exemplify this.

#### Case 1: Surampalem Reservoir Project

Surampalem Project is a medium irrigation project constructed on a hill stream near Surampalem village in Gangavaram mandal (Agency) of East Godavari District. The project was intended to provide irrigation facilities to an extent of 15482 acres, located in 9 tribal villages of Gangavaram mandal (3466 acres) and 10 other villages in mandals of Gokavaram, Korukonda and Rajanagaram (12016 acres). The project was inaugurated in 2007. It affected the villages of Surampalem, Donelapalli, Kothada, Tekulaveedhi and Chodiveedhi in Gangavaram mandal. In this project, the tribal oustees managed to get the land-to-land compensation to an extent of 2 acres per family in the vicinity of their resettlement sites. This happened with the involvement of an NGO, Pragati and the special interest taken by the then Project Officer of ITDA Rampachodavaram.

#### Case 2: Polavaram Project

In the ongoing Polavaram major irrigation project, which has got the status of a national project under the Andhra Pradesh Reorganisation Act, 2014, also the provision of land for land compensation is being implemented. Such land-based compensation is offered specially for the Scheduled Tribe Project Affected Families (ST PAFs). It is in accordance with the Government of Andhra Pradesh Resettlement and Rehabilitation Policy 2005 and the RFCTLARR Act, 2013. As per the clearance granted to the Polavaram project Resettlement & Rehabilitation Plan for STs from the Ministry of Tribal Affairs, Government of India, the Government of Andhra Pradesh shall provide land to STs in lieu of the land acquired from them, in the command area of the project and preferably within the Scheduled Area if the command area and Scheduled Area are co-terminus. Anyhow, the tribal displaced families are provided land up to 5 acres. This is happened and happening only because special interest was taken by the Government of Andhra Pradesh towards the Polavaram project affected people belonging to the STs.

#### Landowner

According to RFCTLARR Act, 2013, "landowner" includes any person – (1) who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; (2) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; (3) who has been declared as such by an order of the court or Authority.

### 7.2. Better Provisions Provided in the Draft National Tribal Policy

There are some better provisions in the draft National Tribal Policy, 2006 that can be considered for the protection and development of Scheduled Tribes. These include:

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- 1) The laws applicable to the Fifth and Sixth Schedule Areas would not be amended to open up the areas for control or ownership by private non-tribal individuals, industries or institutions.
- 2) The definition of “public purpose” will be re-examined. What is a public purpose for one category of the population may result in the trauma of displacement for the tribal people.
- 3) Use of tribal land on a lease basis rather than on acquisition will be encouraged, with provision for the land to revert to the original tribal owner on expiry of the lease period or on the earlier closure of the project or the enterprise.
- 4) The principle of ‘land for land’ to the project affected families in the command area or zone of influence of the project would be followed scrupulously. This would lessen the inbuilt inequities between the upstream displaced persons and the downstream beneficiaries in case of, say, irrigation projects.
- 5) The unused land will, after a fixed period of time, be physically handed back to the original owner or heirs in a condition fit for agriculture or other use.
- 6) In industrial enterprises set up in the Scheduled Areas (except in small ventures), the community would get suitable benefits, which could be in the form of being made a partner in the said industry or a certain percentage of the profits being utilized for local area development. The displaced would become co-sharers in the fruits of acquisition. Suitable amendments in the Companies Act would be introduced for this purpose.

Given the above, while adopting the legally mandated (comprehensive) resettlement and rehabilitation of the RFTLARR Act, 2013 for its consonance with some provisions of the draft National Tribal Policy, the above better provisions from the draft national tribal policy may be incorporated for making a comprehensive policy on tribals.

## 8. Points to Remember in the Land Acquisition Process

If the land is required for any project, the following points need to be kept in mind in the process of land acquisition.

- Do not fail to address the need for minimizing of acquisition of land and resources.
- Never ignore to abide by (or follow) the basic procedural requirements under the Land Acquisition Act 2013.
- Never misuse the urgency clause, if necessary, use it with care and concern.
- Identify the minimum extent of land needed for the required purpose in a village/ area.
- Acquisition of private land should be a last resort, when and where the government or public lands are not available.
- Consider for acquiring the unused government lands first and then the uncultivable (unfertile/ waste) lands from the common public.
- Details of extent and category of lands, structures and other properties likely to

be affected by the proposed acquisition should be recorded perfectly and completely. That is essential for payment of compensation and other benefits.

- Claims of landowners and occupants/enjoyers/persons interested in land/property ownership and compensation should be settled.
- Discrimination between Settlement pattas and D-form pattas for payment of compensation should be removed.
- Values of assets attached to lands or buildings should be estimated with care and concern.
- Record of public lands (village/community) and other common property resources should be identified.
- Land-dependent categories like tenants, share-croppers, agriculture labours should be identified for providing benefits of R&R.
- For projects like mining, tribal cooperative mining and profit-sharing with the traditional owners/enjoyers of the land should be encouraged, instead of acquiring land for outside companies. The collective action helps in community empowerment.
- Land for land compensation should be made compulsory.
- For land-based compensation, the rights conferred on beneficiaries of land should be proprietary and not utilitarian in nature.
- Compensation should be directly credited to their bank accounts.

## 9. Summary

This unit provides why and how land acquisition takes place in general and tribal areas in particular. Involuntary land acquisition dispossesses and deprives the tribals of their lands and means of livelihood and resource-base, and forces to give up their homes and assets. However, if the existing regulations of land acquisition are followed in letter and spirit, and the measures to protect the tribal lands are considered, the problems of acquisition can be subsided to some extent.

## 10. Recapitulation

- For what purposes land is acquired in tribal areas?
- Is the land acquisition beneficial or problematic in tribal areas?
- Do you know the magnitude of land acquisition in tribal areas?
- Is there any controlling or regulating mechanism to decide how much land is actually required for a project?
- How the policy/legislation of land acquisition evolved in India since 1824?
- Why the Land Acquisition Act, 1894 was considered to be arbitrary and outdated?
- How is the land acquisition Act of 2013 different from that of 1894?

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- What are the better provisions in the new land acquisition Act of 2013?
- What are the special provisions for STs under the new land acquisition Act of 2013?
- Which legislation makes the prior consent of the Gram Sabha for the acquisition of any land in Scheduled Areas mandatory?
- What are the special legislations in tribal areas that regulate the acquisition of lands there?
- What is LTR of 1970? Why is it important in the Scheduled areas?
- What does the PESA Act say pertaining to land acquisition in the Scheduled Areas?
- How the Forest Rights Act helps the tribals, in case they are evicted from forest lands?
- What is the significance of Samatha judgment in the context of land acquisition?
- What are the other measures to be considered to protect the interests of tribals and their land?
- Why is land-based compensation important? For which projects such compensation was provided according to your knowledge?
- What are the important points to remember in the land acquisition process?

## 11. Key Terms

Land acquisition, tribal areas, land laws, Gram Sabha, LTR, PESA, FRA, Samatha judgment, special provisions, land-to-land.

## 12. Activity

- The real development starts from the selection of their sites. What to do in this regard?
- What can you do to minimize the dispossession of tribal lands, deprivation of their livelihoods and resource base?
- The deprivation of tribals from the project affected areas/villages is integral to land acquisition. So, eviction from their land often results in resistance among the oustees and even violent resistance. Can you address the need of land with care and concern, and handle the acquisition process with empathy and patience?
- Perfect identification/recognition of rights over lands and other immovable property and proper payment of their compensation is one way of minimizing the deprivation of tribals. Learn how to manage it effectively?

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# 6

## Resettlement and Rehabilitation Policy and its Implementation

Speaking to tribals of Gandikota project evacuees in Chinna Ramanaiahpetta Gramsabha the ITDA Project Officer (PO) said that “the policy of the government includes protecting tribal culture, custom, tradition, providing livelihood and Land Acquisition Act of 2013”.

“He appealed to tribals to extend their cooperation to the officials who are going to reach them to do ‘smart pulse survey’ to know about social and economic status of each tribal. He said that the administration will take all the grievances into account and provide rehabilitation to them according to guidelines of the government and the act”. He said that in the case of ‘land to land’, the administration will allocate land to tribal wherever they want and provide employment to unemployed youth in ITDA based on vacancies. He said that in the case of Podu lands, he will take the issue to the Commissioner of Rehabilitation and Resettlement and assured that no one will be at loss for surrendering their land.

<http://www.thehansindia.com/posts/index/Andhra-Pradesh/2017-05-25/Detailed-policy-on-rehabilitation-of-tribals-soon-A-S-Dinesh-Kumar/302230>

- *What do you think about the concerns of tribals in the resettlement and rehabilitation programmes whenever their land is acquired for developmental projects?*
- *Do you think the government has fulfilled all the promises made for the tribes who are resettled and rehabilitated so far?*

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## 1. Introduction

Even after completion of 68 years from the commencement of the Constitution of India, certain sections of people are still being deprived of their basic rights to life, guaranteed by the Constitution. It is particularly so in the context of the people affected by developmental projects.<sup>1</sup> Of course, the problems of dispossession, displacement, and lack of, or inadequate compensation and rehabilitation are not new, and these are about six-and-a-half decades old in India. These issues are linked to the initiation of modern development projects in the 1950s. However, the project affected people are still neglected, and their problems of rehabilitation remain unattended to. Though the development projects benefit some people (probably a large section of people – as project beneficiaries and mostly those from the powerful groups), but not the project affected people (most of them are from the marginalised and disadvantaged sections) in India. This is happening even after three decades since the developmental theory started considering the resettlement and rehabilitation (R&R) of the project displaced people as a development activity. In this context, this unit intends to provide an outline on the evolution of R&R policy in India, its appraisal and implementation, and the importance and practice of social impact assessment in the development projects.

## 2. Learning Objectives

At the end of this unit, you know about:

- (1) The evolution of resettlement and rehabilitation policy in India,
- (2) The evolution of a comprehensive policy on R&R in India – from the national policy to the Act,
- (3) Government of Andhra Pradesh Resettlement and Rehabilitation Policy 2005,
- (4) An appraisal of resettlement and rehabilitation in India, and
- (5) The social impact assessment – its significance and practice.

## 3. Evolution of Resettlement and Rehabilitation Policy in India

### 3.1. Resettlement and Rehabilitation Policy in Pre-Independence India

There is no provision or policy for resettlement and rehabilitation (R&R) for persons affected due to the acquisition of land in pre-independence India. In particular, the Land Acquisition Act 1894, which makes compulsory forced acquisition of land, does not provide for R&R of persons displaced from their lands. Compensation for lands acquired was also very low under this law, as the rates were determined by the Collector/government.

### 3.2. Resettlement and Rehabilitation Policy in Post-Independence India – Until 2003

Until 2003 a National Policy on Resettlement and Rehabilitation has not been enunciated in India. But some sort of policies existed since the 1980s, as some States have adopted

<sup>1</sup> They are forcibly dispossessed of their lands and livelihoods and displaced from their original roots (habitats) in the project-affected areas.

their own state policies for Resettlement and Rehabilitation. In particular, Maharashtra, Madhya Pradesh and Karnataka enacted laws for rehabilitation of persons displaced by irrigation projects in the 1980s. Orissa and Rajasthan formulated similar policies in the 1990s. Few Ministries/Departments and Public Sector Companies of Central Government have their own policies and guidelines for Resettlement and Rehabilitation. In particular, draft policies on rehabilitation and resettlement by Ministry of Rural Development, Ministry of Water Resources Development, National Thermal Power Corporation Limited (NTPC), and Coal India Limited (CIL) were in existence since 1994, but they were only drafts that were never discussed in Parliament (Guha 2005). The public sector companies of NTPC and CIL formulated their sectoral resettlement policies in 1993 and 1994 respectively. The NTPC has revised its policy in 2005, 2010 and 2017. The CIL has revised its policy in 2008 and 2012. The National Hydro-Power Corporation (NHPC) has finalised its policy in 2006. However, India as a whole had not a national rehabilitation law or policy until the end of 2003.

### 3.3. Resettlement and Rehabilitation Policy in India from 2004 to Till Date

A national policy for rehabilitation came into existence on 17<sup>th</sup> February 2004. It was called as “National Policy on Resettlement and Rehabilitation for Project Affected Families –2003”. It was later revised as “National Rehabilitation and Resettlement Policy, 2007” and came into effect from 31<sup>st</sup> October 2007, and continued up to 2013. Finally, the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” (hereafter, RFCTLARR Act 2013) came into force from 1<sup>st</sup> January 2014 in India. This Act is progressive as it is the first to legally mandate (and comprehensive) resettlement and rehabilitation of project affected people and seems to be a panacea for all the project affected people and their problems. Though the displacement is a multi-dimensional trauma, which cannot easily be compensated, the Act tries to ensure a fair and just legislative regime for STs with certain favourable features. For instance, displacement should be after mandatory consultation with the community as provided in the PESA Act. It also mandates providing of fair compensation and rehabilitation and conducting of Social Impact Assessment. According to this Act, all the affected families – both landowners and the families whose livelihood is primarily dependent on land acquired –are entitled as specified in the Second Schedule of the Act. These include housing units, land for land, choice of annuity or employment, subsistence grant, transportation cost, one-time resettlement allowance, etc.

Though the resettlement and rehabilitation under this Act are considered to be far better than that of the earlier R&R policies (Central and State), such comprehensive policy/Act on R&R did not happen suddenly. It has evolved in course of time from the earlier R&R policy 2003 through R&R policy 2007. The evolution of resettlement and rehabilitation policy in India – from the national policy to the Act – can better be understood from the following comparative table.

**Table: From the Policy to the Act – The Evolution of a Comprehensive Policy on Resettlement and Rehabilitation in India**

R&R Policy Provisions	National Policy on Resettlement and Rehabilitation for Project Affected Families – 2003	National Rehabilitation and Resettlement Policy 2007	Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
Came into force	17 <sup>th</sup> February 2004	31 <sup>st</sup> October 2007	1 <sup>st</sup> January 2014
Applicable to	Projects displacing of 500 or more families <i>en masse</i> in plain areas, or 250 or more families <i>en masse</i> in tribal or hilly areas.	Projects displacing people, irrespective of the number of persons affected.	Projects displacing people, irrespective of the number of persons affected.
Social Impact Assessment (SIA)		The concept of Social Impact Assessment of Projects was added and its procedure had been discussed in a separate chapter. According to this: for a project that involves involuntary displacement of 400 or more families <i>en masse</i> in plain areas, or 200 or more families <i>en masse</i> in tribal or hilly areas – SIA study is to be carried out in the proposed affected areas.	Social Impact Assessment and its procedure are detailed in a separate chapter.
Discussion of the draft Resettlement and rehabilitation plan in Gram Sabhas and public hearings		The draft rehabilitation and resettlement scheme or plan (which is to be prepared after consultation with the representatives of the affected families) shall also be discussed in Gram Sabhas in rural areas and in public hearings in urban and rural areas where Gram Sabhas don't exist.	The draft Rehabilitation and Resettlement scheme shall include time limit for implementing Rehabilitation and Resettlement Scheme; The draft Rehabilitation and Resettlement scheme shall be made known locally by wide publicity in the affected area and discussed in the concerned Gram Sabhas; A public hearing shall be conducted in such

			<p>manner as may be prescribed, after giving adequate publicity about the date, time and venue for the public hearing at the affected area;                  Consultation with the Gram Sabha in Scheduled Areas shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.</p>
<p>Ombudsman or Establishment of Land Acquisition, Rehabilitation and Resettlement Authority</p>		<p>“Ombudsman” means the person appointed under para 8.3 of this policy for redressal of grievances. An Ombudsman shall be appointed by the appropriate Government for time-bound disposal of the grievances arising out of the matters covered by this policy.</p> <p>Any affected person, if aggrieved, for not being offered the admissible rehabilitation and resettlement benefits as provided under this policy may move an appropriate petition for redressal of his or her grievances to the Ombudsman concerned. The Ombudsman shall have the power to consider and dispose of all complaints relating to rehabilitation and resettlement against the decision of the Administrator for Rehabilitation and Resettlement or Rehabilitation and</p>	<p>The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, establish, by notification, one or more Authorities to be known as “the Land Acquisition, Rehabilitation and Resettlement Authority” to exercise jurisdiction, powers and authority conferred on it by or under this Act.</p>

		Resettlement Committee and issue such directions to the requiring body, the Administrator for Rehabilitation and Resettlement.	
Family – definition (for R&R benefits)	“Family” means Project Affected Family consisting of such persons, his or her spouse, minor sons, unmarried daughters, minor brothers or unmarried sisters, father, mother and other members residing with him and dependent on him for their livelihood.	“Family” includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or her and dependent on him or her for their livelihood; and includes “ <i>nuclear family</i> ” consisting of a person, his or her spouse and minor children.	“Family” includes a person, his or her spouse, minor children, minor brothers and minor sisters dependent on him: Provided that widows, divorcees and women deserted by families shall be considered separate families: Explanation – An adult of either gender with or without spouse or children or dependents shall be considered as a separate family for the purposes of this Act.
House site	Free house site is to be allotted to any Project Affected Family (PAF) to the extent of actual loss of area of the acquired house but not more than 150 sq.meter of land in rural areas and 75 sq.meter of land in urban areas.	To the extent of actual loss of area of the acquired house but not more than 250 square metre of land in rural areas, or 150 square metre of land in urban areas, for each nuclear family.	
Assistance for house construction or provision of housing units in case of displacement	Each PAF of BPL (below poverty line) category shall get a one-time financial assistance of Rs. 25000/- for house construction.	Each displaced family of BPL is entitled to a house of 100 square metre carpet area in rural areas. If any such affected family opts not to take the house offered, shall get a suitable one-time financial assistance for house construction, and the amount shall not be less than what is given under any programme of house construction by the Government of India.	If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. Provided that if any affected family in rural areas opts not to take the house offered, the equivalent cost of the house may be offered in lieu of the constructed house.

Land for land	Agricultural land or cultivable wasteland is to be allotted to each PAF to the extent of actual land loss subject to a maximum of one hectare of irrigated land or two hectares of un-irrigated land/ cultivable wasteland subject to availability.	Each affected family owning agricultural land in the affected area and whose entire land has been acquired or lost, may be allotted agricultural land or cultivable wasteland to the extent of actual land loss by the affected family subject to a maximum of 1 hectare of irrigated land or 2 hectares of un-irrigated land or cultivable wasteland, if Government land is available in the resettlement area. This benefit shall also be available to the affected families who have, as a consequence of the acquisition or loss of land, been reduced to the status of marginal farmers.	In the case of the irrigation project, each affected family shall be allotted a minimum of 1acre of land in the command area of the project for which the land is acquired.
Allotment of land in the command area		In the case of irrigation or hydel projects, the affected families shall be given preference in allotment of land-for-land in the command area of the project, to the extent possible.	
Assistance for cattle shed or petty shops cost	Each PAF having cattle shall get financial assistance of Rs. 3000/- for construction of cattle shed	Each displaced family that has cattle, shall get financial assistance of not less than Rs. 15000 rupees, for construction of cattle shed.	Each affected family having cattle or a petty shop shall get one-time financial assistance of minimum of Rs. 25000 for construction of cattle shed or petty shop as the case may be.
Transportation cost for shifting of building materials	Each PAF shall get financial assistance of Rs. 5000/- as transportation cost for shifting of building materials, belongings and cattle etc. from the affected zone to the resettlement zone.	Each displaced family shall get a one-time financial assistance of not less than Rs. 10000, for shifting of the family, building materials, belongings and cattle.	Each affected family which is displaced shall get a one-time financial assistance of Rs. 50000 as transportation cost for shifting of the family, building materials, belongings and cattle.

For artisan, small trader, self-employed person (and certain others)	Each PAF comprising of rural artisan/small trader and self-employed person shall get one-time financial assistance of Rs.10,000/- for construction of working shed/shop.	Each displaced person who is a rural artisan, small trader or self-employed person shall get a one-time financial assistance of not less than Rs. 25000, for construction of working shed or shop.	Each affected family of an artisan, small trader or self-employed person or an affected family which owned non-agricultural land or commercial, industrial or institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance of minimum of Rs. 25000.
Choice of Annuity or Employment		<p>The requiring body shall:</p> <p>(a) give preference to the affected families – at least one person per nuclear family - in providing employment in the project, subject to the availability of vacancies and suitability of the affected person for the employment.</p> <p>(b) wherever necessary, arrange for training of the affected persons, so as to enable such persons to take on suitable jobs.</p> <p>(c) offer scholarships and other skill development opportunities to the eligible persons from the affected families.</p> <p>(d) give preference to the affected persons or their groups or cooperatives in the allotment of outsourced contracts, shops or other economic opportunities coming up in or around the project site.</p>	<p>The appropriate Government shall ensure that the affected families are provided with the following options:</p> <p>(a) where jobs are created through the project, after providing suitable training and skill development in the required field, make provision for employment at a rate not lower than the minimum wages provided for in any other law for the time being in force, to at least one member per affected family in the project or arrange for a job in such other project as may be required; or</p> <p>(b) one-time payment of Rs. 5,00,000 per affected family; or</p> <p>(c) annuity policies that shall pay not less than Rs. 2000 per</p>

		(e) give preference to willing landless labourers and unemployed affected persons while engaging labour in the project during the construction phase. The affected persons shall be offered the necessary training facilities for development of entrepreneurship, technical and professional skills for self-employment. The project authorities shall, at their cost, arrange for annuity policies that will pay a pension for life to the vulnerable affected persons of a minimum of Rs. 500 per month.	month per family for 20 years, with appropriate indexation to the Consumer Price Index for Agricultural Labourers.
Financial assistance for “loss of livelihood” or rehabilitation grant	Each PAF whose entire land has been acquired shall get one- time financial assistance equivalent to 750 days minimum agricultural wages for “loss of livelihood” where neither agricultural land nor regular employment to one member of the PAF has been provided.	The affected families who have not been provided agricultural land or employment shall be entitled to a rehabilitation grant of 750 days minimum agricultural wages or such other higher amount.	
Financial assistance to labourers	Each PAF belonging to the category of ‘agricultural labourer’, or ‘non-agricultural labourer’ shall be provided with a one-time financial assistance equivalent to 625 days of the minimum agricultural wages		

Monthly subsistence allowance or Subsistence grant for displaced families for a Period of one year	Each displaced PAF shall get a monthly subsistence allowance equivalent to 20 days of minimum agricultural wages per month for a period of one year up to 250 days of minimum agricultural wages.	Each displaced family shall get a monthly subsistence allowance of 25 days minimum agricultural wages per month for a period of 1 year from the date of displacement	Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to Rs. 3000 per month for a period of 1 year from the date of award. In addition to this amount, the STs and SCs displaced from Scheduled Areas shall receive an amount equivalent to Rs. 50000. In cases of displacement from the Scheduled Areas, the affected families shall be relocated in a similar ecological zone, so as to preserve the economic opportunities, [besides] language, culture and community life of the tribal communities.
Fishing rights		In the case of irrigation or hydel projects, fishing rights in the reservoirs shall be given to the affected families.	In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs.
One-time Resettlement Allowance			Each affected family shall be given a one-time "Resettlement Allowance" of Rs. 50000/-.
<b>Special R&amp;R Benefits for STs</b>			
Consultation and Consent of Gram Sabhas		The concerned Gram Sabha or the Panchayats at the appropriate level in the Scheduled Areas or Councils in the Schedule VI Areas shall be consulted in all cases of	In case of acquisition or alienation of any land in the Scheduled Areas, the prior consent of the concerned Gram Sabha or the Panchayats at

		<p>land acquisition in such areas including land acquisition in cases of urgency, before issue of a notification under the Land Acquisition Act, 1894 or any other Act of the Union or a State for the time being in force under which land acquisition is undertaken, and the consultation shall be in accordance with the provisions of the “Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996” and other relevant laws. Further, in cases of involuntary displacement of 200 or more STs families from the Scheduled Areas, the concerned Tribes Advisory Councils (TACs) may also be consulted.</p>	<p>the appropriate level shall be obtained in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act, or any other Central Act or a State Act for the time being in force. Provided that the consent of the Panchayats shall be obtained in cases where the Gram Sabha does not exist or has not been constituted.</p>
<p>Tribal Development Plan</p>		<p>In case of a project involving involuntary displacement of 200 or more STs families, a Tribal Development Plan shall be prepared, laying down the detailed procedure for settling land rights due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition. The Plan shall also contain a programme for the development of alternate fuel, fodder and non-timber forest produce (NTFP) resources on non-forest lands within a period of 5 years sufficient to meet requirements of tribal communities who are denied access to forests.</p>	<p>In case of a project involving land acquisition and involuntary displacement of the STs or SCs families, a Development Plan shall be prepared laying down the details of the procedure for settling land rights due but not settled and restoring titles of the STs and SCs on the alienated land by undertaking a special drive together with land acquisition. The Development Plan shall also contain a programme for the development of alternate fuel, fodder and non- timber forest</p>

			produce resources on non-forest lands within a period of five years, sufficient to meet the requirements of STs as well as the SCs.
Additional financial assistance to tribal PAFs	Each Tribal PAF shall get additional financial assistance equivalent to 500 days minimum agriculture wages for loss of customary rights/usages of forest produce.	Each ST affected family shall get an additional one- time financial assistance equivalent to 500 days minimum agricultural wages for loss of customary rights or usages of forest produce.	
Rehabilitation and resettlement benefits to the original tribal land-owners, even if their lands are alienated		Any alienation of tribal lands in violation of the laws and regulations for the time being in force shall be treated, as null and void. In the case of acquisition of such lands, the rehabilitation and resettlement benefits would be available to the original tribal landowners.	Any alienation of tribal lands or lands belonging to members of the SCs in disregard of the laws and regulations for the time being in force shall be treated as null and void, and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be made available to the original tribal landowners or landowners belonging to the SCs.
Fishing rights	Tribals families residing in the Project Affected Areas having fishing rights in the river/pond/dam shall be given fishing rights in the reservoir area.	In the case of irrigation or hydel projects, the affected STs, other traditional forest dwellers and the SCs families having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.	The affected STs, other traditional forest dwellers and the SCs having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

Resettlement in the same Scheduled Area	Tribal PAFs will be re-settled close to their natural habitat in a compact block so that they can retain their ethnic, linguistic and cultural identity.	The Scheduled Tribes affected families will be resettled, as far as possible, in the same Scheduled Area in a compact block, so that they can retain their ethnic, linguistic and cultural identity.	The affected families of the STs shall be resettled preferably in the same Scheduled Area in a compact block so that they can retain their ethnic, linguistic and cultural identity.
If relocated outside the district, additional R&R benefits	Tribal PAFs resettled out of the district/ taluka will get 25% higher R&R benefits in monetary terms.	In case of a project involving land acquisition on behalf of a requiring body, the Scheduled Tribes affected families resettled out of the district will get 25% per cent. higher rehabilitation and resettlement benefits in monetary terms.	Where the affected families belonging to the STs and the SCs are relocated outside of the district, then, they shall be paid an additional 25 per cent rehabilitation and resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of 50000 rupees.
Land for community, religious and social gatherings.	Tribal PAFs shall get land free of cost for community & religious gathering.	The resettlement areas predominantly inhabited by the Scheduled Tribes shall get land free of cost for the community and religious gatherings, to the extent decided by the appropriate Government.	The resettlement areas predominantly inhabited by the STs and the SCs shall get land, to such extent as may be decided by the appropriate Government free of cost for the community and social gatherings.
Land to Land for STs		Each affected family of Scheduled Tribe followed by Scheduled Caste categories shall be given preference in allotment of land-for-land, if Government land is available in the resettlement area.	In every project, those persons losing land and belonging to the STs or the SCs will be provided land equivalent to land acquired or 2½ acres, whichever is lower.
Reservation benefits in the affected area		The Scheduled Tribes and Scheduled Castes affected families enjoying reservation benefits in the affected area shall be entitled to get the	Whenever the affected families belonging to the STs who are residing in the Scheduled Areas (referred to in the Fifth

		reservation benefits at the resettlement area(s).	Schedule to the Constitution) are relocated outside those areas, than, all the statutory safeguards, entitlements and benefits being enjoyed by them under this Act shall be extended to the area to which they are resettled regardless of whether the resettlement area is a Scheduled Area referred to in the said Fifth Schedule, or not.
Settlements of benefits for forestland holders		The affected STs families, who were in possession of forest lands in the affected area prior to the 13th December 2005, shall also be eligible for the rehabilitation and resettlement benefits under this policy.	Where the community rights have been settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion with his share in such community rights.

#### 4. Andhra Pradesh Resettlement and Rehabilitation Policy 2005

The Rehabilitation and Resettlement (R&R) Policy for Government of Andhra Pradesh, 2005 (also called as the “Policy on the Resettlement and Rehabilitation for Project Affected Families – 2005”) came into effect through a G.O.Ms.No. 68 on 8<sup>th</sup> April 2005. This was in conformity with the National policy on R&R 2003. It had gone through various amendments since 2005, mainly due to the pressing need upon the insistence of the affected people as well as the necessity to comply with the provisions of the newly enacted Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the National R&R policy of 2007. Important amendments to this policy of 2005 include modifying the definition of family and adding the Social Impact Assessment, among others. The salient features of the policy and modifications to it from time to time can better be understood in the following table.

**Table: Government of Andhra Pradesh Resettlement and Rehabilitation Policy 2005**

Para	Provisions	AP R&R Policy 2005 (Original)	Modifications in the AP R&R Policy 2005
3.10	Family-definition	“Family” means Family consisting of such persons as his or her spouse, minor sons, unmarried daughters, minor brothers or unmarried sisters, father, mother and other members residing with him and dependent on him for their livelihood.	<p>(a) “Family” includes a person, his or her spouse, minor sons, minor daughters, minor brothers or minor sisters and other members residing with him and dependent on him for their livelihood. Further each major son and major daughter residing with such person will be treated as a separate family and the cut-off date for calculating their age of 18 years will be the date of notification issued under Section 4(i) of Land Acquisition Act, 1894 for acquisition of the village as notified under Para 5.1 of this G.O.</p> <p>[Added by vide G.O.Ms.No.88,I &amp; CAD (PW- LA-IV,R&amp;R.I) Dept. dt: 26-8-2010].</p> <p>(b) “Vulnerable persons” means the disabled, destitute, orphans, widows, major unmarried daughter, abandoned/ divorced women or persons above fifty years of age, who are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family.</p> <p>[Added to Para 3.10 as 3.10(b) vide G.O.Ms.No. 46 I &amp; CAD (PW: LA-IV-R&amp;R) Dept., DT: 28-2-2009 and G.O. MS.No 77 I &amp; CAD (PW-LA- IV, R&amp;R.I) Dept., DT: 10-7-2009. &amp; Para 3.10 shall be treated as Para 3.10(a)]</p>
3.15	Occupiers	“Occupiers” means members of Scheduled Tribe community in possession of forest land prior to 25th October, 1980.	<p>“Occupiers” means members of the Scheduled Tribes/Other traditional forest dwellers in possession of forest land prior to the 13th Day of December, 2005.</p> <p>[Substituted in place of para 3.15 vide G.O.Ms.No.134, I&amp;CAD (PW:LA-IV-R&amp;R) Dept., dt:13-11-2009].</p>
3.15a	Other traditional forest dweller		<p>“Other traditional forest dweller” means any member of the community who has for at least three generations (generation means a period of 25 years) prior to the 13th day of Dec’2005 primarily resided in and who depend on the forest or forests land for bonafide livelihood needs.</p>

3.16	Project Affected Family	It means as defined in the policy under para(s) 3.16: a, b, c.	As defined under 3.16: a, b, c; and d) any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land (including plot in the Abadi or other property) in the affected area or otherwise, has been involuntarily displaced from such land or other property. [Added to para 3.16 vide G.O.Ms.No.134, I&CAD(PW:LA- IV-R&R)Dept., dt:13-11-2009].
3.23	Ombudsman		Ombudsman means the person appointed under Para 7.5 of this policy. [Added after para 3.22 vide G.O.Ms.No.134, I&CAD(PW: LA- IV-R&R)Dept. dt:13-11-2009].
5.14	Draft Scheme/ Plan for R&R	5.14) the Administrator for R&R shall prepare a draft scheme/plan for the Resettlement & Rehabilitation of the Project Affected Families and Project Displaced Families in consultation with representatives of Project Affected Families and Project Displaced Families including women, Chairpersons of elected Panchayati Raj Institutions within which the project area is situated.	Para 5.14, and 5.14.a) The draft rehabilitation and resettlement scheme or plan shall also be discussed in Gram Sabhas in rural areas and in public hearings in urban and rural areas where Gram Sabhas do not exist. 5.14.b) The consultation with the gram sabha or the panchayats at the appropriate level in the Scheduled Areas under Schedule V of the Constitution shall be in accordance with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996) 5.14.c) In cases of involuntary displacement of two hundred or more Scheduled Tribes families from their lands & houses in Scheduled Areas, the concerned Tribes Advisory Councils may also be consulted. [Added after Para 5.14 vide G.O.Ms.No.134, I&CAD(PW- LA.IV, R&R-II) Dept., DT: 13.11.2009].
5.18	Contents of Draft Scheme/ Plan of R&R	Every draft Scheme/ Plan of resettlement and rehabilitation prepared shall contain the following particulars, namely: [as mentioned under paras 5.18.a to 5.18.m].	5.18.n) A list of vulnerable affected persons, as defined at para 3 (ii) vide G.O.Ms.No.46, Irrigation & C.A.D.(PW:LA.IV-R&R) Department, dated 28-02-2009 read with G.O.Ms.No.77, Irrigation & C.A.D.(PW:LA.IV-R&R) Department, dated:10-07-2009. 5.18.o) In case of a project involving land acquisition on behalf of a requiring body which involves involuntary displacement of two hundred or more Scheduled Tribes families, a Tribal Development Plan shall be prepared, in such from as may be prescribed, laying down the detailed procedure for settling land rights

			<p>due but not settled and restoring titles of tribals on alienated land by undertaking a special drive together with land acquisition. The Plan shall also contain a programme for the development of alternate fuel, fodder and non-timber forest produce (NTFP) resources on non-forest lands within a period of five years sufficient to meet requirements of tribal communities who are denied access to forests.</p> <p>5.18.p) Details of proposed training Programme for development of entrepreneurship, technical &amp; professional skills for self-employment.</p> <p>[Added after Para 5.18(m) vide G.O.Ms.No.134 I&amp;CAD(PW-LA.IV, R&amp;R-II) Dept., DT: 13.11.2009].</p>
6.2	Allotment of house site/ payment of exgratia	Any Project Displaced Family (PDF) owning house and whose house has been acquired shall be allotted free of cost house site to a maximum extent of 150 sq mt of land in rural areas and 75 sq mt of land in urban areas.	<p>6.2.a) Any Project Displaced Family (PDF) holding up to an area of 5 Cents of village site and whose site has been acquired shall be allotted house site of an extent of 202 square meters (5 Cents) of land in rural areas or 75 square meters of land in Urban areas in the Resettlement zone besides payment of compensation for the structures if any therein.</p> <p>[Substituted for Para 6.2 vide G.O.Ms.No.76, I&amp;CAD(PW.LA.IV- R&amp;R.I) Dept., DT: 13-4-2006].</p> <p>6.2.a1) Where any such PDF as defined above desires to migrate and settle at the place of his/ her choice, cash of compensation in lieu of house site as applicable in the resettlement Zone shall be paid besides payment of compensation for the structures therein and in case the PDF belongs to BPL category, they shall be given suitable one time financial assistance for house construction including cost of sanitary latrine as fixed by the Government from time to time.</p> <p>[Added after Para 6.2a as 6.2a (1) and Para 6.2(c) Substituted Vide G.O.Ms.No.134, I&amp; CAD (PW.LA.IV- R&amp;R.I) Dept., DT:13-11-2009].</p> <p>6.2.b) In case if any Project Displaced Family (PDF) holds village site of more than 5 Cents, such holder shall be allotted village house site of an extent of 202 Square Meters (5 cents) of land in rural areas or 75 Square Meters of land in Urban areas in the Resettlement zone and also be paid exgratia for the site in excess of 5 Cents (for example if a family holds village site of 20 Cents in Project Affected Zone and have</p>

			<p>two major sons, residing with such person in case, they take 3 house sites of 5 Cents each in Resettlement zone, they will get exgratia for the balance of 5 Cents (20 cents – 3x5 cents = 5 cents).</p> <p>[Substituted for Para 6.2 vide G.O.Ms.No.76, I &amp; CAD (PW.LA.IV- R&amp;R.I) Dept., DT: 13-4-2006].</p> <p>6.2.c) The Compensation/ exgratia payable as above shall be on par with the package deal payable in case of acquisition of private / patta lands.</p> <p>[Added after Para 6.2a as 6.2a (1) and Para 6.2(c) Substituted Vide G.O.Ms.No.134, I&amp; CAD (PW.LA.IV- R&amp;R.I) Dept., DT:13-11-2009].</p>
6.3	Grant for House construction	Each PDF of BPL category who has been allotted free house site under section 6.2 shall get a one-time financial assistance of Rs. 40,000 or as fixed by Government from time to time for house construction. Non-BPL families shall not be entitled to receive this assistance.	<p>Each PDF of BPL Category who has been allotted free house site under session 6.2 shall get a one-time financial assistance of Rs. 40,000/- (Rupees Forty thousand only) shall be increased to Rs.50,000/- (Rupees Fifty thousand only). This increase will have prospective effect. A sum of Rs. 5,000/- (Rupees Five thousand only) is granted to those who have already shifted houses from 8-4-2005 to 10-12-2007. Apart from the above, a sum of Rs.3,000/- would be allowed in addition to the housing grant as per G.O.Ms. No.68, dt:8-4-2005. The above increase shall come into force with retrospective effect i.e., the date of issue of G.O.Ms.No.68, dt:8-4-2005.</p> <p>[Substituted for Para 6.3 vide G.O.MS.No.271, I&amp;CAD (PW.LA.IV- R&amp;R)Dept., DT: 11-12-2007].</p>
6.4	Allotment of Government land to PAFs, who become Small, or Marginal farmers or Landless after the acquisition, in lieu of Acquired land	<p>In case of allotment of waste/ degraded or agricultural Government land, each such PAF shall also get financial assistance of Rs. 10,000 per hectare for land development, and in case of allotment of agricultural land, Rs. 5,000 per PAF for agricultural production shall be given.</p> <p>How-ever such allotment of</p>	No change.

		Government land will be restricted to an extent of land acquired from PAF or 2.5 Ha of dry or 1.25 Ha wetland whichever is lesser.	
6.5	Allotment of land acquired by Government from the project benefited area to Schedule Tribe PAFs, who become Small, or Marginal farmers or Landless after acquisition, in lieu of Acquired land from them.	<p>Government may acquire land within the project benefited area, as per guidelines issued by the Government from time to time such that no person should become small or marginal farmer or landless due such acquisition, for allotment of such land to ST PAFs (who become small or marginal farmers or landless due to acquisition of their land for the project), if such PAFs so desire, in lieu of lands acquired from them.</p> <p>However such allotment will be restricted to the extent of land acquired from such PAFs or 2.5 Ha dry land or 1.25 Ha land whichever is lower.</p>	<p>Government shall acquire land within the project benefited area, as per guidelines issued by the Government from time to time such that no person should become small or marginal farmer or landless due to such acquisition, for allotment of such land to ST PAFs (who become small or marginal farmers or landless due to acquisition of their land for the project), if such PAFs so desire, in lieu of lands acquired from them.</p> <p>[The word 'shall' be incorporated substituting the word 'may' vide G.O.MS.No. 119, I &amp; CAD (PW- LAIV, R&amp;R.II) Dept., DT: 26-6-2006].</p> <p>However such allotment will be restricted to the extent of land acquired from such PAFs or 2.5 Ha dry land or 1.25 Ha wet land whichever is lower.</p>
6.7	Grant for cattle shed	Each PAF having cattle, at the time of acquiring his house, shall get financial assistance of Rs.3000/- or as fixed by Government from time to time for construction of cattle shed in the new settlement.	<p>Each affected family that is displaced and has cattle, shall get financial assistance of such amount as the appropriate Government may decide but not less than Rs.15,000/- for construction of cattle shed.</p> <p>[Substituted for Para 6.7 vide G.O.Ms.No.134, I&amp;CAD(PW.LA.IV- R&amp;R.I)Dept., DT: 13-11-2009].</p>

6.8	Grant for Transporting materials	Each PAF shall get lump sum one time financial assistance of Rs. 5000/- for transportation/ shifting of his building materials, belongings and cattle etc. from the affected zone to the resettlement zone.	No change.
6.9	Income Generating Scheme Grant	Each PAF comprising of rural artisan / small trader and self-employed person shall get one-time lump sum financial assistance of Rs. 25000/- for construction of working shed/shop.	Each PAF comprising of rural artisan/small trader and self-employed person shall get one time lump sum financial assistance of Rs.25, 000 for construction of working shed/shop. 6.9.a) The affected persons shall be offered the necessary training for development of entrepreneurship, technical & professional skills for self-employment. [Added after Para 6.9 vide G.O.Ms.No.134, I&CAD(PW.LA.IV- R&R.I)Dept., dt:13-11-2009].
6.10	Wages if after acquisition land owner becomes landless	Each PAF owning agricultural land in the affected zone and whose entire land has been acquired shall get one-time financial assistance equivalent to 750 days minimum agricultural wages for loss of livelihood if no land is allotted in lieu of acquiring land.	No change.
6.11	Wages if after acquisition landowner becomes marginal farmer "or continues to be a marginal farmer even after acquisition	Each PAF owning agriculture land in the affected zone and who consequently becomes a marginal farmer shall get one time financial assistance equivalent to 500 days minimum agricultural wages if no land is allotted in lieu of acquired land.	Each PAF owning agriculture land in the affected zone and who consequently becomes a marginal farmer or continues to be a marginal farmer even after acquisition shall get one-time financial assistance equivalent to 500 days minimum agriculture wages if no land is allotted in lieu of acquired land. [Added to Para 6.11 in the heading vide G.O.Ms.No.46, I&CAD(PW:LA- IV-R&R) Dept., dt:28-2-2009].

6.12	Wages if after acquisition land owner becomes small farmer "or continues to be a small farmer even after the acquisition	Each PAF owning agriculture land in the affected zone and who consequently becomes a small farmer shall get one-time financial assistance equivalent to 375 days minimum agricultural wages if no land is allotted in lieu of acquired land.	Each PAF owning agriculture land in this affected zone and who consequently becomes a small farmer or continuous to be a small farmer even after acquisition shall get one-time financial assistance equivalent to 375 days minimum agricultural wages if no land is allotted in lieu of acquired land. [Added to Para 6.11 in the heading vide G.O.Ms.No.46, I&CAD(PW:LA- IV-R&R) Dept., dt:28-2-2009].
6.13	Wages to labourers:	Each PAF belonging to the category of 'agricultural labourer', or 'nonagricultural labourer' shall be provided a onetime financial assistance equivalent to 625 days of the minimum agricultural wages.	No change.
6.14	Subsistence allowance to displaced family	Each PAF who is also a project displaced family shall get a onetime subsistence allowance equivalent to 240 days of minimum agricultural wages. It will be in addition to any other benefit available to him as PAF.	(a) Each PAF who is also a project displaced family shall get a onetime subsistence allowance equivalent to 240 days of minimum agricultural wages. It will be in addition to any other benefit available to him as PAF. (b) Each vulnerable person as defined at Para - 3.10(b) will be paid a pension of Rs.500/- (Rupees Five hundred only) a month for life by arranging the necessary annuity policies by the Project Administrator at its cost. [Added to Para 6.14 as Para 6.14(b) vide G.O.Ms.No.46, I & CAD (PW:LA- IV-R&R) Dept., dt:28-2-2009].
6.16	Settlements of benefits for forest land holders	The project Affected Families who were in possession of forest lands prior to 25th October 1980 shall get all the benefits of R&R as given in above paras under the policy.	The Project Affected Families who were in possession of forest lands in the affected area prior to 13 December 2005 shall also be eligible for the resettlement benefits under this policy. 6.16.a) In the case of irrigation or hydel projects, fishing rights in the reservoirs shall be given to the affected families, if such rights were enjoyed by them in the affected area; 6.16.b) In other cases also, unless there are special reasons, fishing rights shall be given preferentially to the affected families. 6.16.c) In the case of irrigation or hydel projects, the affected Scheduled Tribes, and

			<p>members of other community having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.</p> <p>[Substituted for Para 6.16 and Added after Para 6.16 vide G.O.Ms.No.134, I&amp;CAD(PW.LA.IV-R&amp;R.I) Dept.,DT: 13-11-2009].</p>
<b>R&amp;R Benefits for STs/Fishermen</b>			
6.19b	Additional financial assistance	Each Tribal PAF shall get additional financial assistance equivalent to 500 days minimum agriculture wages for loss of customary rights/ usages of forest produce.	<p>Each Tribal PAF shall get additional Financial assistance equivalent to 500 days minimum agriculture wages for loss of customary rights/ usage of forest produce.</p> <p>(i) Each non-tribal PAF who is a member of a registered Fishermen Cooperative Society/ Fishing license holders in the affected zone and who lost fishing rights and livelihood shall get additional financial assistance equivalent to 500 days minimum agricultural wages for loss of fishing rights.</p> <p>[Added vide G.O.Ms.No.114 IRRIGATION &amp; C.A.D. (PW: LA.IV-R&amp;R) DEPARTMENT dt : 08-09-2009].</p>
6.19f	Fishing rights	The Tribal families residing in the Project Affected Areas having fishing rights in the river/pond/dam shall be given fishing rights in the reservoir area.	<p>The Tribal families residing in the Project Affected Area having fishing rights in the river/ pond/dam shall be given fishing rights in the reservoir area.</p> <p>(i) The Non-tribal families residing in the project affected areas having fishing rights in the river/pond/dam who is a member of a registered Fishermen Cooperative Society/ Fishing license holders shall be given fishing rights in the reservoir area.</p> <p>[Added vide G.O.Ms.No.114 IRRIGATION &amp; C.A.D.(PW: LA.IV-R&amp;R) DEPARTMENT dt:08-09-2009].</p>
6.19g	Priority for fishermen PAFs in extending other benefits		<p>g) All the Fishermen PAFs will be accorded priority in extending benefits under various schemes/programmes being implemented by the state fisheries Department in consultation with R&amp;R authorities.</p> <p>[Added vide G.O.Ms.No.114 IRRIGATION &amp; C.A.D.(PW: LA.IV-R&amp;R) DEPARTMENT dt : 08-09-2009].</p>

6.19h	Fish Seed Stocks in the new Reservoirs		Newly impounded/completed Reservoirs under Jalayagnam shall be stocked with Fish Seed on priority basis by the state Fisheries Department by utilizing funds available under different schemes with the Fisheries Department/DRDA/ITDA/SC Corporation/MADA/BC Corporation or by seeking provision of funds under R&R package as per requirement. [Added vide G.O.Ms.No.114 IRRIGATION& C.A.D.(PW: LA.IV-R&R) DEPARTMENT dt:08-09-2009].
6-A	Social Impact Assessment (SIA) of projects		Added a new chapter VI-A vide G.O.Ms.No.134 IRRIGATION & C.A.D. (PW: LA.IV-R&R) DEPARTMENT, dt:13-11-2009.

## 5. Resettlement and Rehabilitation: An Appraisal

The persistence of R&R problems even today, after completion of four years from the commencement of the much sought after law on R&R (RFCTLARR Act, 2013), is an issue of serious concern. Such problems occurred until the recent past mainly due to the following reasons: lack of R&R policy until 2003 and existence of colonial land acquisition Act of 1894, among others. As mentioned earlier, until 2003 from the initiation of modern development projects in India (in the 1950s) for more than five decades (53 years), even a policy on R&R at the national level (forget about the legislation) was absent. During that time of no policy of rehabilitation, the rights of the project affected people had largely been neglected and they were often put to various forms of deprivation. The outdated land acquisition Act of 1894 that was in force until 2013 provided arbitrary power to the State and the land acquisition authority under the concept of “eminent domain.” The Act provided only the compensation to the individual landowners for the lands acquired, and no rehabilitation for the affected people. Besides the doctrine of eminent domain, the process of acquisition violated the basic rights of life of the oustees, even without respecting the Constitutionally guaranteed right to life. The general public view – that some sacrifices are necessary and normal by the affected people for the benefit of other people in the project command area – also created problems.

If R&R is not implemented properly it remains problematic for the land oustees. The policies on R&R of some States that existed earlier also violated the oustees rights to decent life. This was mainly because they were “policies” and not “legislations”. A policy is unlike a legislation and it is not a guarantee that it would be implemented. So, a policy, instead of legislation, may always be problematic. And, policies on R&R were vague most of the times. The problems that arise with a policy, when compared with a legislation, can better be understood by looking into the operation of earlier policies on R&R that prevailed before the RFCTLARR Act, 2013.

### 5.1. Implementation of R&R Policies

Although a national policy for rehabilitation came into existence in 2004 (as “National Policy on Resettlement and Rehabilitation for Project Affected Families 2003”) and

continued up to 2013 in its revised form (as “National Rehabilitation and Resettlement Policy, 2007”), this 2003 policy was like “something is better than nothing” type. This was because: 1) there was no national rehabilitation policy prior to 2003 as already mentioned; and 2) though the policy that existed between 2003 and 2013 (for a decade) provided for some rehabilitation, in theory, there were some problems in its implementation by the Central and State Governments. Though there was a chance for the State Governments to formulate their policies by the National Policy on Resettlement and Rehabilitation, 2003, making it more beneficial for the affected families, some States have simply adopted/adapted the national policy.

In case of the Government of undivided Andhra Pradesh that initiated a large number of projects (74 irrigation projects and 99 Special Economic Zones) and tried to acquire about 12 lakh acres of agriculture lands, adopted the national policy with certain modifications, for providing certain relief for the project affected people in the State. This adoption and adaptation was made in 2005. Even though this policy was presented as the best one among all the policies of rehabilitation in the entire country, some better policies such as Orissa Resettlement and Rehabilitation Policy 2006, and NTPC’s Policy on Resettlement & Rehabilitation 2005 (it was later revised in 2010 and 2017) were also in existence then. In the course of time, however, the Andhra Pradesh R&R policy 2005 was modified several times for making it better – first in 2006 in response to the protests by the oustees of Gundlakamma reservoir project and another important one in 2009 to incorporate the provision of Social Impact Assessment in compliance with the National R&R policy 2007, among others.

However, for a policy to be a better one and successful, its proper implementation is also important. This implementation largely depends on the better and operational provisions, as well as the knowledge (and proper understanding) of the policy and the interest and concern among the project/government authorities and the officials connected with this implementation. Due to the negligence in its implementation in letter and spirit, vested interests, and pressure tactics on the oustees mounted by the authorities, several problems arise in the process of resettlement and rehabilitation, leading to corruption, improper distribution of benefits, and deprivation of R&R to project affected families. These problems are in addition to the unexpected problems faced by the oustees due to their being uprooted from their roots and attempting to relocate and resettle them in totally alien areas (with a different culture, language, and social milieu), where the locals could treat them as “intruders.”

In view of the above, the rehabilitation and rehabilitation policy of erstwhile Government of Andhra Pradesh could not safeguard the project affected people in rural and tribal areas of Andhra Pradesh. Thus, the earlier R&R policies (Central and State) were obscure, problematic in operation, lack in certain provisions, and their implementation depended on the interest and mercy of authorities as they were “policies”. These are clearly visible in the major irrigation projects of the earlier Gundlakamma reservoir project in Prakasam district and the ongoing Polavaram project in West Godavari district, and to some extent in the medium irrigation projects of Bhupathipalem and Musurumilli projects in the Rampachodavaram Agency area of East Godavari district.

However, resettlement and rehabilitation under the present RFCTLARR Act, 2013 is considered to be better than the earlier R&R policies (Central and State) due to its better and operational provisions. For instance, in this Act, the definition of “Affected family” – for payment of compensation and R&R entitlements – has been expanded.

### Definition of Affected Family

According to RFCTLARR Act, 2013, “affected family” includes: (1) a family whose land or other immovable property has been acquired; (2) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land; (3) the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 due to acquisition of land; (4) family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land; (5) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition; (6) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land.

## 5.2. Case Studies

### 5.2.1. Sardar Sarovar (Narmada) Project

It is a multi-purpose and inter-state project, built across the river Narmada in Gujarat. Its foundation was laid in 1961 by the Prime Minister Jawaharlal Nehru and inaugurated in 2017 by the Prime Minister Narendra Modi. Though this dam building faced various problems including the severe resistance from the affected people, it was finally completed after completion of 56 years from its foundation. Though there are divergent views on the project, a reliable source of information says that the project has moderately been successful in resettling the affected people, particularly in Gujarat. It is reported that the commitments of Gujarat government at the time of relocation are fulfilled to a large extent. The oustees are satisfied with the land they got in lieu of the land lost, infrastructural facilities (education, roads and transport, healthcare services and markets. But it failed in solving the second-generation problems. The tribal resettlers who were newly exposed to market and trying to adjust to the new setting, are in a disadvantageous position compared to others who were already part of the system. Because they were minimally dependent on the market as most of the items produced are used to be largely consumed locally. Though they feel a loss of identity and security, it is not strong. On the whole, the displaced people are said to be in a conciliatory mood.

However, in this project, the quantum of displacement was underestimated and the losses due to submergence were undervalued. Further, some oustees were not provided with the adequate land as specified in the policy. All the oustees suffered the acute problem of fuel and fodder. Deficiencies also existed relating to facilities in the new sites. The sub-primary health centres were too few for easy access to the public health system. Fragmentation of family and land was not uncommon. For the tribals of Nayakada, Bhil, Nayaka and Vasava from interior submerging villages, it became difficult to adapt to new

agriculture. Access failure to production institution is not uncommon, and poor quality of land has forced some PAPs in some villages to go back to their submerging villages.

### 5.2.2. Polavaram Project

The Polavaram dam project is under construction across the river Godavari at Polavaram, West Godavari district, Andhra Pradesh. It is a multi-purpose project and got the status of the national project in 2014. Like the Narmada project, it has also faced resistance due to the problem of massive displacement of tribal people in the Scheduled Areas of Andhra Pradesh. The trauma of the tribals to be affected began long back, perhaps since the proposal of construction of the dam in the 1940s. The project affects a total of 2,37,000 people in 277 villages in 9 mandals of East Godavari and West Godavari districts of the State. It displaces a total of 42,701 families (47.36% STs, 15.42% SCs), and 1,50,697 people from 226 villages. The tribal oustees come from 170 habitations and most of them are Koyas and Konda Reddis.

The resettlement and rehabilitation for this project was done as per the Andhra Pradesh R&R policy 2005 till 31st December 2013 and it is being implemented as per the RFCTLARR 2013 Act 2013 since 1st January 2014. The immediately affected villages that were located at the dam construction site in Polavaram mandal of West Godavari fall under the first phase of relocation and rehabilitation. There were five such villages. It was reported that majority of those oustees were unsatisfied with the compensation and R&R. This is mainly because: 1) They were displaced from their ancestral homes and lands and deprived of their assets, livelihoods and resource base, which also has certain psychological, social and cultural consequences at the new location, and such multi-dimensional trauma cannot be compensated easily; 2) The compensation and R&R package to the oustees of those villages were provided in accordance with the Land Acquisition Act of 1894 and the Andhra Pradesh R&R policy 2005, which were unlike the RFCTLARR Act 2013; 3) Non-applicability of the RFCTLARR Act 2013 that came into effect later and provides benefits in a better way elsewhere for the oustees of the same project; 4) Problems of implementation of resettlement and rehabilitation policy.

However, most of the displaced tribals are reported to have facing numerous problems at the rehabilitation centres, which are located far from the original villages. The lands that were provided to them are not nearer to their homes at R&R Centres. It was also reported that the oustees are facing problems of lack of proper infrastructural facilities at the rehabilitation centres such as drinking water, electricity, roads, schools, and healthcare facilities. They are also facing problems in coping up with the local people at the resettlement centres due to the differences in culture and socio-economic lifestyle of tribals displaced. They lost access to forest resources and products, unlike their original habitats.

Anyway, the situation at other affected villages, where land acquisition and R&R are being implemented as per RFCTLARR Act 2013 is relatively better as per the available information. In other words, those whose lands are acquired and to whom R&R is being implemented after the commencement of the RFCTLARR Act, express satisfaction with their compensation and R&R package when compared with such compensatory benefits for others prior to that Act under the Land Acquisition Act of 1894 and the Andhra Pradesh R&R policy 2005. However, the future will judge their conditions at the new locations.

### 5.2.3. Gundlakamma Reservoir Project

Gundlakamma Reservoir Project earned the distinction of the first project out of the 74 irrigation projects, including 26 fast-track projects, taken up by the Government of Andhra Pradesh, for commissioning in a very short time of just two years. The project, set up in the Prakasam district of the state, was officially completed and inaugurated by the then Chief Minister of the State in 2008 to provide irrigation to 40,000 acres then out of the total envisaged ayacut (command-area) of 80060 acres. The project was also expected to provide drinking water to 2.56 lakh people in 43 villages and Ongole town, the district headquarter.

This was the only project launched without any resistance from the land oustees, unlike other projects in the State. While cooperating with this project, the oustees were just concerned about and demanded fair compensation and proper resettlement for them. The positive response from the displaced people towards the construction of the project gave a chance for undertaking and completing this project in very short time. Had the then government used this opportunity of positive response and cooperation from the project oustees and addressed the issues of land acquisition and R&R properly and effectively, the project would have set a precedent for all other and future projects. But, unfortunately, that did not happen. Instead, the oustees of the project have faced various problems in receiving their compensation and resettlement and rehabilitation benefits. These problems were due to ineffective implementation of the R&R policy 2005 and certain problematic provisions in the policy as well.

For instance, the house site offered in lieu of acquired house/homestead land of any extent was only 150 sq metres of land in rural areas. The affected people, who live in spacious houses in larger areas of homestead lands in the rural areas, considered this size as smaller and insufficient for them. Hence, the displaced families wanted to have large size plots of at least 5 Cents. Similarly, there was a problem regarding the definition of “family” in the policy. According to the policy, “Family” means “Family consisting of such persons as his or her spouse, minor sons, unmarried daughters, minor brothers or unmarried sisters, father, mother and other members residing with him and dependent on him for their livelihood.” This definition of the family (and the policy as a whole) omitted the major sons (if not daughters), who are potential establishers of their families/households separately, sooner or later (after getting married), for providing house sites. This definition of the family further created problems at the implementation stage, as it was not an operational definition, and gave scope for misinterpretation of the term joint families as single family units (nuclear families) and refused certain benefits while misusing the powers for favouring certain vested interests.

Other problems that arose in the project include: 1) Intentional and unknown delays in payment of compensation for the houses/structures of the oustees, whose lands were already acquired and affected by the dam works that were stated to be completed soon; 2) Unknown delay in the implementation of rehabilitation measures (such as providing house sites); 3) Uncertainty in payment of compensation towards DKT/assigned lands; and 4) No assurance from the project authorities (government) for providing proper infrastructural facilities/amenities such as drinking water, places of worship, burial grounds, and exemption of seignorage for sand for construction of houses in the new settlement colonies at the resettlement site.

The above problems caused fear and anxiety among the displaced people, particularly of Ghadiyapudi village, which was the first fully submerged village out of five completely submerged villages (and 13 affected villages) in the project. Hence, the oustees of Ghadiyapudi village, out of necessity and urgency, were forced to resort to protest. All the villagers together started their protest by moving toward the project (dam) site and stopping the dam construction work there completely. They continued their protest in a novel form of “Vanta-Varpu” (cook and eat) agitation by collectively cooking and eating and also sleeping in an open area at a junction of the right earth bund of the dam and the approach road to Ghadiyapudi. The project displaced people from the neighbouring villages of Dhenuvakonda, Garlapadu, and Burepalli expressed solidarity with the protestors. This agitation that stopped the dam work completely continued for eight days from 29/12/2005 to 5/1/2016.

Similar protests, like with stopping of the project work, were held again in the first week of April 2006 by the project affected people (mainly from a larger village Dhenuvakonda this time). Some of their main demands then were: 1) to consider to allot 5 Cents of house site, instead of 3.7 Cents offered earlier, 2) to treat the status of major sons (aged above 18 years) of the displaced families as separate families so that they too could be allotted house sites, 3) for payment of compensation towards assigned lands, 4) provision of drinking water in the new settlement colonies, 5) separate site for burial ground, 6) exemption of seignorage for sand for construction of houses in the resettlement colonies, 7) provision for places of worship, 8) issue of cheques towards payment of compensation and R&R benefits to project displaced/affected families without further delay, and 9) to consider the problems of the project affected families from the partially affected villages.

As a result of this agitation and the demands made to the District Collector, the State Government had constituted a three-member committee, headed by the then Additional Secretary (A. K. Jain), R&R, Irrigation & CAD Department. After prolonged discussions of the committee with the agitators for three days from 8/4/2006, the committee had recommended the demands of the project affected families. In response to the report of the committee and the representation of the oustees, through the District Collector, the government considered the demands of the project affected/displaced families. Accordingly, the government had issued two G.Os.: G.O. 76 on 13<sup>th</sup> April 2006 and G.O. 82 on 27<sup>th</sup> April 2006.

The G.O. 76 was an amendment to the original R&R policy 2005 (G.O. 68) for revising its relief and rehabilitation package. With this G.O., the extent of each house site has been increased from 150 square metres (3.7 Cents) to 202 square meters (5 Cents). By this G.O. only, the definition of family in G.O. 68 had been amended and the following was added at the end: “and each major son residing with such person will be treated as a separate family.” In other words, the sons, aged 18 and above, of the displaced families, are considered to be separate families for extension of rehabilitation benefits such as separate house sites. Thus, the demands through an agitation by Gundlakamma Project oustees only led to issue the G.O. (76) that was made applicable to the entire State of Andhra Pradesh for the revised benefits of rehabilitation.

The G.O. 82 was to approve the recommendations of the committee constituted earlier for land acquisition and R&R of Gundlakamma Reservoir Project. According to this G.O., the government accepted the demands of the oustees for providing protected water, places of worship, burial ground, exemption from seignorage for sand, among other things.

Nevertheless, the displaced families have faced, and are still facing, various problems regarding their resettlement and rehabilitation. These problems are mainly due to ineffective implementation of the R&R policy. For instance, some essential infrastructural facilities, or basic amenities, were not provided to the people of Ghadiyapudi, who were displaced in 2006, even after completion of 11 years of its resettlement (at Maddipadu). The neglected amenities for them at the resettlement colony include providing potable water, and earmarking of a burial and cremation ground, among others.

## 6. Other Concerns of the Tribals to be Focused

There is a need to consider and focus on certain better provisions and concerns of the tribals rehabilitation as provided in the draft National Tribal Policy and the High Level Committee on tribal communities of India.

### 6.1. Better Provisions to Consider from the Draft National Tribal Policy

There exist some provisions in the draft National Tribal Policy, 2006 that are either lacking in or better than the RFCTLARR Act, 2013. Those are as follows.

- 1) The principle of least displacement would be mandatorily followed, or minimize the displacement at least in Scheduled Areas.
- 2) There shall be a threshold of displacement viz. the maximum number of persons that can be displaced in one project. Projects involving displacement of more than a fixed number, say 50000, would not be considered, if the majority are STs, or would be subjected to more stringent appraisal norms.
- 3) There will be mandatory consultations with Tribes Advisory Councils in case of displacement of STs from the Scheduled Areas.
- 4) STs displaced from Scheduled Areas shall be allotted alternative lands in Scheduled Areas only.
- 5) A ground-level monitoring mechanism involving representatives of the PAFs, and post- implementation social audit will also be ensured. Given the above, while adopting the legally mandated and comprehensive resettlement and rehabilitation of RFCTLARR Act, 2013 for its consonance with some provisions of the tribal policy, the above better provisions from the tribal policy may be incorporated for making a comprehensive policy on tribals.

### 6.2. Other Points to Consider from the High Level Committee on Tribals

The report of the High Level Committee on tribal communities of India (2014) provides certain recommendations on displacement and rehabilitation of the tribals. These are as follows.

- 1) The RFCTLARR Act, 2013 lays considerable emphasis on consultation and consent of Gram Sabhas. It is essential that the State be vigilant through adequate monitoring mechanisms for ensuring that consent is obtained freely and every displaced person gets adequate and comprehensive R&R in lieu of land/ livelihoods lost.

- 2) The process of displacement should be democratic and rights of tribal people to say “no” to the acquisition of their land and to access and manage forests and other common property resources, be recognised.
- 3) There should be a rights-based approach to comprehensive rehabilitation for socio- economic reconstitution of victims of development.
- 4) “Land for land” provision should be made mandatory among tribals. The compensatory land provided must be suitable for cultivation or made cultivable with irrigation and agricultural inputs.
- 5) Rehabilitation should be treated as a continuous process to be monitored by the Project Authority and State until the alternative livelihood becomes economically viable. They must be given a stake in the assets and economic activities being created on their acquired land and common property resources (for e.g., land in the command area, irrigation of tribal land in the vicinity, jobs in industries, or shops/jobs in industrial projects/townships).
- 6) Implementation of the new law will be difficult in the absence of resettlement and rehabilitation capacities in the local administration, local community and corporate entities. It is essential that the State and corporate sector create such capacity by introducing professional training and orientation courses for following the best R&R practices worldwide and replicating them in the Indian situation.
- 7) Offering tribal people monetary compensation and making promises without the attendant capacity to deliver on them will not resolve the impasse that has brought land acquisition to a standstill. Sporadic attempts by instruments of the State to use force to acquire land is unethical and unacceptable. Only a genuine and bonafide effort at comprehensive and pragmatic R&R can persuade tribal people to part with their land.
- 8) With a primary emphasis on monetary compensation, it is essential that displaced tribal people, who may not have experience in handling money and understanding of the monetary economy, should be advised on handling their cash compensation. Banking facilities should be made available for keeping their money safe and credit facilities should be provided by the State (to avoid exploitation by money-lenders).
- 9) It is seen that that gross undervaluation of losses, the replacement value of loss and costs of resettlement has led to the inadequate financing of R&R and externalization of costs of R&R to the displaced and the future generations. This needs to be rectified.
- 10) Though there is a provision of infrastructural amenities/facilities to be provided in the resettled village or colony in the LARR Act 2013, provision of banking facilities has been missed out.

Above all the success of the above (comprehensive) Act or Policy also depends on the commitment of the people involved (from top to bottom) in its implementation in letter and spirit. A suitable mechanism needs to be evolved for monitoring of implementation while involving people from areas such as judicial, academic, and civil society.

## 7. Social Impact Assessment – Significance and Practice

### 7.1. Social Impact Assessment and its Significance

Social Impact Assessment (SIA) is a tool used to assess the social impacts that are likely to follow from the development projects undertaken. It can help decision makers to foresee the likely negative impacts of their actions so that necessary steps to prevent or to stop them could be taken in time. SIA, as an aid to the decision-making process, "provides information on social and cultural factors that need to be taken into account in any decision that affects the lives of project area people" (Anthropological Survey of India 2011). According to the RFCTLARR Act 2013, SIA helps in the determination of social impact and public purpose. As per the Act, SIA study includes the following:

- 1) Assessment as to whether the proposed acquisition serves public purpose;
- 2) Estimation of affected families and the number of families among them likely to be displaced;
- 3) Extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;
- 4) Whether the extent of land proposed for acquisition is the absolute bare minimum extent needed for the project;
- 5) Whether land acquisition at an alternate place has been considered and found not feasible;
- 6) Study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project vis-à-vis the benefits of the project.

The RFCTLARR Act 2013 provides that the appropriate land acquisition authority intends to acquire land for a public purpose shall consult the concerned panchayat at the village level, in the affected area and carry out a SIA study in consultation with them.

### 7.2. Social Impact Assessment Practice

According to the RFCTLARR Act 2013, the practice of Social Impact Assessment consists of 2 parts: 1) Preliminary investigation for determination of social impact and public purpose, and 2) Appraisal of Social Impact Assessment report by an expert group.

#### 7.2.1. Preparation of SIA Study

The Preparation of SIA study involves the following steps: (1) The notification issued by the appropriate authority for commencement of consultation and of SIA study shall be made available in the local language to the panchayats, and in the offices of the Tehsildar, Sub Collector or Revenue Divisional Officer, and District Collector, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government. (2) The appropriate authority shall ensure that adequate representation has been given to the representatives of panchayat or Gram Sabha, at the stage of carrying out the SIA study. (3) The appropriate authority shall ensure the completion of the SIA study within a period of six months from the date of its commencement. (4) While undertaking a SIA study, the appropriate authority shall take

into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport, drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds. (5) The authority conducting the SIA study is required to prepare a Social Impact Management Plan listing the ameliorative measures required to be undertaken for addressing the impact for a specific component referred to in the above paragraph.

### **7.2.2. Public Hearing for SIA**

Whenever a Social Impact Assessment is required to be prepared, the appropriate Government shall ensure that a public hearing is held at the affected area, after giving adequate publicity about the date, time and venue for the public hearing, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report.

### **7.2.3. Publication of SIA Study**

The appropriate Government shall ensure that the Social Impact Assessment study report and the Social Impact Management Plan are prepared and made available in the local language to the Panchayat, and in the offices of the Tehsildar, Revenue Divisional Officer, and District Collector, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government.

### **7.2.4. Appraisal of SIA Report by an Expert Group**

The Social Impact Assessment report is to be evaluated by an independent multi-disciplinary Expert Group. The Expert Group shall include the following: (1) two non-official social scientists; (2) two representatives of Panchayat or Gram Sabha, as the case may be; (3) two experts on rehabilitation; and (4) a technical expert in the subject relating to the project.

If the Expert Group is of the opinion that – (a) the project does not serve any public purpose; or (b) the social costs and adverse social impacts of the project outweigh the potential benefits – it shall make a recommendation within two months that the project shall be abandoned forthwith and no further steps to acquire the land will be initiated in respect of the same.

If the Expert Group is of the opinion that – (a) the project will serve any public purpose; and (b) the potential benefits outweigh the social costs and adverse social impacts – it shall make specific recommendations within two months from the date of its constitution whether the extent of land proposed to be acquired is the absolute bare-minimum extent needed for the project and whether there are no other less displacing options available.

The recommendations of the Expert Group shall be made available in the local language to the Panchayat, and in the offices of the Tehsildar, Sub Collector or Revenue Divisional Officer, and District Collector, and shall be published in the affected areas, in

such manner as may be prescribed, and uploaded on the website of the appropriate Government.

### **7.2.5. Examination of Proposals for Land Acquisition and SIA Report by Appropriate Government**

The appropriate Government shall ensure that – (1) there is a legitimate and bonafide public purpose for the proposed acquisition which necessitates the acquisition of the land identified; (2) the potential benefits and the public purpose shall outweigh the social costs and adverse social impact as determined by the Social Impact Assessment that has been carried out; (3) only the minimum area of land required for the project is proposed to be acquired; (4) there is no unutilised land which has been previously acquired in the area; (5) the land, if any, acquired earlier and remained unutilised, is used for such public purpose and make recommendations in respect thereof.

The appropriate Government shall examine the report of the Expert Group on the SIA study and recommend such area for acquisition which would ensure minimum displacement of people, minimum disturbance to the infrastructure, ecology and minimum adverse impact on the individuals affected.

The decision of the appropriate Government shall be made available in the local language to the Panchayat, and in the offices of the Tehsildar, Sub Collector or Revenue Divisional Officer, and District Collector, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government.

### **7.2.6. Lapse of SIA Report**

Where a preliminary notification under section 11 of the RFCTLARR Act 2013 (stating that land in any area is required or likely to be required for any public purpose) is not issued within 12 months from the date of appraisal of the SIA report submitted by the Expert Group, then, such report shall be deemed to have lapsed and a fresh SIA shall be required to be undertaken prior to acquisition proceedings under section 11.

## **8. Summary**

Any developmental activity can be meaningful, only when the land dispossessed and project affected/displaced people are properly taken care of and adequately rehabilitated. Nevertheless, the oustees are continued to be disregarded and deprived, most of whom are from the tribal areas, in most of the projects. Their rights to life and livelihoods are often violated largely by some mighty authorities. Reasons for this are many; these include, the coercive land acquisition Act of 1894, which was in force until 2013 and provided arbitrary power to the authorities in land acquisition with no provision of R&R, and lack of a national policy on R&R until 2003. The R&R policies of Central and State governments that existed until 2013 provided some benefits for the affected people, but their implementation was a major problem. However, there is a scope for better R&R under the provisions of RFCTLARR Act 2013, as this Act, unlike the earlier policies, makes the R&R mandatory. And the resettlement and rehabilitation programmes for the project affected/displaced people are effective vehicles for their substantial social and economic development, if planned and implemented diligently by the authorities and officials.

## 9. Recapitulation

- How is the RFCTLARR Act 2013 different from the earlier national and State policies on R&R?
- Do you think that the RFCTLARR Act 2013 is better than the earlier policies of R&R? Yes/no and why?
- How is the Gram Sabha important in the R&R under the RFCTLARR Act 2013?
- Andhra Pradesh R&R policy 2005 was presented as the best one among all the R&R policies in the country. What do you say and why?
- Compare the special benefits for STs among all the R&R policies?
- Effective implementation of R&R is vital for a project to be successful. What is an effective implementation for you? How to achieve it?
- Several problems arise in the R&R process. Identify certain major problems based on your knowledge and experience and how to handle them?
- Do you think that the successful implementation of R&R depends on the interest and empathy of officials for the tribals?
- The oustees of the Gundlakamma reservoir project have faced various problems in receiving their compensation and R&R. What are they and what are the reasons behind them?
- What are the merits and demerits of the R&R of Polavaram project?
- When was the concept of Social Impact Assessment of Projects added to the R&R policy? How is it important?
- What is the procedure of Social Impact Assessment?

## 10. Key Terms

R&R policy, R&R Act, affected family, displaced family, R&R benefits, special provisions, R&R appraisal, Social Impact Assessment, SIA preparation, SIA appraisal.

## 11. Activity

- The project affected people often face various problems even in receiving their rightful R&R benefits. Is it because of: 1) the problems in certain provisions of R&R policy, or 2) lack of proper understanding of the policy, or 3) operational difficulties that arise in the implementation of the policy, or 4) lack of effective implementation of the policy, or 5) all the above, or 6) some of the above, or 7) something else? Identify the correct reasons based on your field experience and knowledge on R&R.
- A major shortcoming in the R&R is an exclusive focus on “monetary compensation” and inadequate handling of land compensation. The cash compensation is inadequate to enable people to reconstruct new livelihoods. Do you agree with these?
- Selection of the location for resettlement is an important task in the R&R. Some criteria are followed for selection of such location such as availability of cultivable land, forest resources/products, grazing lands, water resources, and access to roads/

markets. According to you which criteria should be followed for selection of new location, and why?

- Who should select the location for resettlement – affected people, head of the affected village/hamlet, R&R implementing officials, head of the local body, NGO, or all of them?
- Appropriate agency to build the house for the displaced family – self, Government agency, NGO, private contractor, cooperative group, or others – identify.

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for

## Functionaries in Tribal Areas

### Volume 2 : Land and Identity Issues in Tribal Areas

As part of the MoU between CIPS and the Tribal Welfare Department, Government of Andhra Pradesh, Amaravati, CIPS has been requested to design a module for the functionaries working in the tribal areas of Andhra Pradesh. CIPS has collaborated with the Department of Anthropology, University of Hyderabad and brought out these modules.

The modules are designed as source books explaining the key concepts, information and reference material pertaining to important aspects of tribal life, culture, economy and various programmes taken up for their development and welfare. Each source book is expected to help the functionaries as self-learning material, equipping the functionaries with the basic concepts, theoretical framework and practical application of the principles concerning various aspects of governance in the tribal areas and of tribal development.

Prof. B.V. Sharma and Prof. N. Sudhakar Rao of Department of Anthropology, University of Hyderabad have edited this volume, assisted by Dr. K. Koteswara Rao, Post-Doctoral Fellow at the Department, under the overall guidance of Sri C. Achalender Reddy, Director, CIPS and his team.

