

# THE INDIGENOUS WORLD 2010



# THE INDIGENOUS WORLD 2010

Copenhagen 2010

# THE INDIGENOUS WORLD 2010

---

**Compilation and editing:** Cæcilie Mikkelsen

**Regional editors:**

*The Circumpolar North & North America:* Cæcilie Mikkelsen

*Central and South America:* Alejandro Parellada

*Australia and the Pacific:* Cæcilie Mikkelsen

*Asia:* Christian Erni and Christina Nilsson

*The Middle East:* Diana Vinding

*Africa:* Marianne Wiben Jensen and Geneviève Rose

*International Processes:* Lola García-Alix and Cæcilie Mikkelsen

**Cover and typesetting:** Jorge Monrás

**Maps:** Ronan McHugh and Jorge Monrás

**English translation:** Elaine Bolton and Brenda Gonzalez

**Proof reading:** Elaine Bolton

**Russian translation:** Jennifer Castner

**Prepress and Print:** Eks-Skolens Trykkeri, Copenhagen, Denmark

© The authors and The International Work Group for Indigenous Affairs (IWGIA), 2010 - All Rights Reserved

The reproduction and distribution of information contained in *The Indigenous World* is welcome as long as the source is cited. However, the translation of articles into other languages and the reproduction of the whole BOOK is not allowed without the consent of IWGIA. The articles in *The Indigenous World* reflect the authors' own views and opinions and not necessarily those of IWGIA itself, nor can IWGIA be held responsible for the accuracy of their content.

*The Indigenous World* is published annually in English and Spanish.

Director: Lola García-Alix

Administrator: Zoya Shahbazian

## HURRIDOCS CIP DATA

**Title:** The Indigenous World 2010

**Edited by:** Cæcilie Mikkelsen

**Pages:** 632

**ISSN:** 1024-0217

**ISBN:** 978-87-91563-75-1

**Language:** English

**Index:** 1. Indigenous Peoples – 2. Yearbook – 3. International Processes

**Geographical area:** World

**Publication date:** April 2010



Distribution in North America:

Transaction Publishers

300 McGaw Drive

Raritan Center - Edison, NJ 08857

[www.transactionpub.com](http://www.transactionpub.com)

This book has been produced with financial support from the Danish Ministry of Foreign Affairs and NORAD.



## INTERNATIONAL WORK GROUP FOR INDIGENOUS AFFAIRS

Classensgade 11 E, DK 2100 - Copenhagen, Denmark

Tel: (45) 35 27 05 00 - Fax: (45) 35 27 05 07

E-mail: [iwgia@iwgia.org](mailto:iwgia@iwgia.org) - Web: [www.iwgia.org](http://www.iwgia.org)

# CONTENTS

---

<b>Editorial</b> .....	10
------------------------	----

## PART I – COUNTRY REPORTS

### **The Circumpolar North**

Greenland.....	18
Sápmi	
Sweden.....	26
Norway.....	31
Russian Federation.....	36
Inuit Regions of Canada.....	49

### **North America**

Canada .....	56
United States of America.....	67

### **Mexico and Central America**

Mexico .....	78
Guatemala .....	90
Honduras.....	102
Nicaragua .....	110
Costa Rica.....	120
Panama .....	127

### **South America**

Colombia .....	136
Venezuela .....	148
Suriname.....	162
Ecuador.....	169
Peru .....	183
Bolivia .....	195
Brazil .....	207
Paraguay.....	218
Argentina.....	229
Chile.....	243

## **Australia, New Zealand and the Pacific**

Australia .....	258
Aotearoa (New Zealand).....	267
Guam.....	275
West Papua.....	281
Tuvalu .....	288
Hawaii.....	293

## **East and South East Asia**

Japan .....	300
China.....	308
Tibet.....	315
Taiwan.....	320
Philippines .....	327
Indonesia .....	335
Malaysia.....	344
Thailand.....	352
Cambodia .....	359
Viet Nam.....	367
Laos .....	375
Burma .....	382

## **South Asia**

Bangladesh.....	392
Nepal.....	400
India .....	406
Nagalim .....	422

## **Middle East**

The Palestinian Bedouin in Israel .....	430
---	-----

## **North and West Africa**

Morocco .....	438
Algeria.....	446
Niger .....	453
Burkina Faso .....	459

## **The Horn of Africa and East Africa**

Ethiopia.....	468
Kenya .....	476
Uganda .....	486
Tanzania.....	492

## **Central Africa**

Rwanda.....	504
Burundi.....	510
The Democratic Republic of Congo (DRC) .....	516
The Republic of Congo.....	522
Gabon.....	527
Cameroon .....	534

## **Southern Africa**

Angola.....	540
Namibia .....	545
Botswana .....	554
South Africa .....	562

## **PART II - INTERNATIONAL PROCESSES**

The UN Permanent Forum on Indigenous Issues.....	570
The Expert Mechanism on the Rights of Indigenous Peoples .....	576
The Special Rapporteur on Indigenous Peoples.....	583
The Universal Periodic Review.....	590
The UN Framework Convention on Climate Change .....	595
The Convention on Biological Diversity.....	604
The African Commission on Human and Peoples' Rights .....	613
The Arctic Council .....	620

## **PART III - GENERAL INFORMATION**

About IWGIA.....	626
Becoming a member .....	627
IWGIA publications 2009.....	628

# INDIA

In India, 461 ethnic groups are recognized as *Scheduled Tribes*, and these are considered to be India's indigenous peoples. In mainland India, the Scheduled Tribes are usually referred to as *Adivasis*, which literally means indigenous peoples. With an estimated population of 84.3 million, they comprise 8.2% of the total population. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognized. Estimates of the total number of tribal groups are as high as 635. The largest concentrations of indigenous peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal. India has several laws and constitutional provisions, such as the Fifth Schedule for mainland India and the Sixth Schedule for certain areas of north-east India, which recognize indigenous peoples' rights to land and self-governance. The laws aimed at protecting indigenous peoples have numerous shortcomings and their implementation is far from satisfactory. India has a long history of indigenous peoples' movements aimed at asserting their rights.

## Legal rights and policy developments

In a two-day Annual Conference of the State Ministers for Social Welfare and Justice held in New Delhi in September, the State governments reportedly decided to set up Special Courts to try cases registered under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 with a view to decreasing case backlogs and improving the conviction rate.<sup>1</sup>



By the end of 2009, the government of India had failed to release the final National Tribal Policy drafted by the Ministry of Tribal Affairs in June 2006. The recommendations of Group of Ministers were incorporated in the Cabinet Note which was submitted to Cabinet Secretariat on 14 July 2008, and resubmitted on 7 November 2008 for placing before Cabinet for approval. In March 2009 the Cabinet Secretariat re-

turned the Cabinet Note with the remark that the proposal would require further consultations with the Prime Minister's Office.<sup>2</sup>

## Indigenous peoples engulfed by armed conflicts

In 2009, the indigenous peoples continued to be engulfed by armed conflicts. At present, 21 out of total of 28 Indian states are affected by internal armed conflicts. with the exception of the states of Jammu and Kashmir, the rest (7 North Eastern states and 13 other states afflicted by the Naxalite or Maoist conflict) involve indigenous peoples. Obviously, the indigenous peoples suffer disproportionately from human rights violations at the hands of both the security forces and the armed opposition groups.

On 7 July 2009, the Minister of State for Home Affairs informed the Lok Sabha (Lower House of Parliament) that a total of 255 civilians, 200 security forces and 107 Maoists (also called Naxalites) had been killed in nine Maoist affected states of India during January–June 2009. Chhattisgarh state, which is the epicentre of the Naxalite conflict in India, recorded the highest number of killings (74 civilians, 74 security personnel and 63 Maoists).<sup>3</sup>

In July, the Central government and various governments of Naxalite-affected states launched a major anti-Naxal operation named "Operation Green Hunt",<sup>4</sup> although the authorities have denied its existence. Operation Green Hunt unleashed such atrocities against the tribal villagers that it came to be dubbed "Operation Tribal Hunt".<sup>5</sup>

A fact-finding investigation conducted by human rights organizations reported having found numerous cases of extrajudicial killings, tortures, arrests, looting and burning of houses and properties by the security forces comprising the anti-Naxal force, Commando Battalion for Resolute Action, state police, Special Police Officers and the anti-Naxalite *Salwa Judum* militia activists during Operation Green Hunt in Chhattisgarh in September-October 2009.<sup>6</sup>

In the early hours of 10 November 2009, cadres of the banned National Liberation Front of Tripura (NLFT) shot dead eight Reang tribals, including four women, at Pushparampara village in North Tripura district of Tripura. The victims were reportedly relatives of members of the NLFT who had surrendered to the police a day earlier. While taking

responsibility for the killings, the NLFT stated that the family members of the deceased had been involved in snatching a rifle and some cash from one of the NLFT cadres. Several panic-stricken Reang tribal families fled their homes and took shelter in neighbouring villages.<sup>7</sup>

## **Human rights violations against indigenous peoples**

### **Prime Minister admits human rights violations against indigenous peoples**

During 2009, serious human rights violations were perpetrated against indigenous peoples across India. On 4 November 2009, while addressing a conference of Chief Ministers and State Ministers of Tribal Affairs, Prime Minister Dr Manmohan Singh warned that the alienation of tribals was taking a “dangerous turn” and said the “social and economic abuse of our tribal communities can no longer be tolerated”. He admitted that there had been a “systemic failure in giving the tribals a stake in the modern economic processes that inexorably intrude into their living spaces.”<sup>8</sup>

The conviction rate for cases of atrocities against the Scheduled Castes and Scheduled Tribes in India is below 30 per cent under the Prevention of Atrocities Act of 1989, against the average of 42 per cent for all cognizable offences under the Indian Penal Code.<sup>9</sup>

### **Human rights violations by the security forces**

The security forces were responsible for alleged fake encounter killings, torture, arbitrary arrests and other human rights violations against indigenous peoples. On 8 January 2009, Chhattisgarh Police claimed to have killed at least 15 armed Maoist cadres in an encounter at Gollapalli in Dantewada district of Chhattisgarh.<sup>10</sup> However, the villagers alleged that police shot dead 17 innocent tribals, including six women, in cold blood. According to the villagers, a group comprising security personnel, activists of the *Salwa Judum* militia and Special Police Officers (SPOs) had allegedly rounded up some villagers to carry rice bags for them at Simgaram village, a remote village located in the forests near the border between Chhattisgarh and Andhra Pradesh, on

the afternoon of 8 January 2009, and then shot them dead. On 29 January 2009, the Chhattisgarh High Court directed the state government of Chhattisgarh to exhume the bodies of the tribals who had been killed in the alleged encounter and conduct an autopsy on them.<sup>11</sup>

On 15 April 2009, the paramilitary Central Reserve Police Force (CRPF) killed five tribal villagers, including two minors, in an alleged fake encounter in Barhania forest in Latehar district of Jharkhand following the killing of two CRPF personnel in a landmine explosion. Four of the five victims belonged to one family.<sup>12</sup> On 19 April 2009, the residents of Barhania village protested against the alleged extrajudicial killing. In view of the mounting protests, the Jharkhand government ordered an inquiry and transferred three senior officials.<sup>13</sup>

Human rights organizations accused the security forces and *Salwa Judum* members of committing looting, burning, torture and extrajudicial executions during Operation Green Hunt. For example, on 17 September 2009, the security forces - comprising anti-Naxal force, Commando Battalion for Resolute Action (CoBRA), state police, Special Police Officers and *Salwa Judum* activists - allegedly tortured and extrajudicially executed six tribal villagers at Gachanpalli village in Dantewada district of Chhattisgarh during Operation Green Hunt.<sup>14</sup> On 1 October 2009, the security forces and *Salwa Judum* members allegedly extrajudicially killed nine tribal villagers, including four members from one family, at Gompad village in Dantewada district of Chhattisgarh.<sup>15</sup> Witnesses have maintained that all those killed were innocent villagers with no involvement with the Maoists. The security forces have denied any foul play. Interestingly, however, a key witness - and one of the petitioners in the Supreme Court in this case - was taken into custody by the Chhattisgarh police on her way to Delhi for treatment on 3 January 2010. After her lawyer moved a petition the Supreme Court on 7 January 2010, it directed the police "not to interfere, in any manner whatsoever ....in her coming to Delhi for her medical treatment."<sup>16</sup> She was later admitted to the All India Institute of Medical Sciences in Delhi but remained under the strict surveillance of plain-clothes police officers who refused journalists access to her.<sup>17</sup> The police have also allegedly detained three other witnesses but refuse to acknowledge their detentions and have banned journalists from going to Gompad village.<sup>18</sup>

### **Human rights violations by armed opposition groups**

Armed opposition groups continued to be involved in gross violation of human rights including killings, abductions and torture during 2009.

The Maoists were the worst violators of the rights of indigenous peoples and continued to kill innocent tribals on charges of being “police informers”, members of the anti-Maoist civilian militia such as *Salwa Judum* and for not obeying their diktats. On 23 February 2009, the Maoists killed a tribal youth at Surakonda village in Khammam district of Andhra Pradesh on the charge of acting as a “police informer”.<sup>19</sup> Similarly, the Maoists killed a tribal leader after dragging him out of his house at Kaliveru village in Khammam district of Andhra Pradesh on 27 April 2009.<sup>20</sup> On the night of 31 July 2009, the Maoists killed a tribal and assaulted his family members for not attending a public meeting organised by them, at Bhutha village in Surguja district of Chhattisgarh.<sup>21</sup> Again on 4 August 2009, Doren Singh Munda, a central committee member of Jharkhand Mukti Morcha, a political party, was shot dead allegedly by Maoists at Bagda in East Singhbhum district of Jharkhand.<sup>22</sup>

National Liberation Front of Tripura (NLFT) militants kidnapped six Chakma tribesmen from Raishyabari village near the India-Bangladesh border in Tripura’s Dhalai district on 1 October 2009. The militants freed three of them and demanded a ransom of Rs 500,000 (10,600 USD) for the release of three others.<sup>23</sup>

On 10 November 2009, suspected cadres of the NLTF shot dead eight Reang tribals including four women at Pushparampara village under Kanchanpur Police Station in North Tripura district of Tripura. The victims were relatives of members of NLFT who had surrendered to the police a day earlier.<sup>24</sup>

### **Violence against indigenous women and children**

Indigenous women and children are highly vulnerable to violence, including killing, rape and torture by non-tribals, security forces and members of the armed opposition groups in armed conflict situations.

On 7 June 2009, three Special Police Officers (SPOs) were arrested on charges of raping two minor tribal girls on 4 June 2009 in tribal-dominated Mungiakami village in Tripura. The accused SPOs abducted the victims, students of class VI, as they were returning home after watching TV at their neighbours' home and raped them in a nearby jungle. The victims' families alleged that the police officers who took the victims to the hospital for medical tests threatened the victims' families to withdraw the case and sent the girls back without the tests. Worse, the local Village Panchayat (Village Council) reportedly asked two of the accused to marry the victimized girls, while the third was asked to bear the cost of the wedding ceremony.<sup>25</sup>

On 15 July 2009, an 18-year-old tribal girl was allegedly raped by the Sub Inspector of Kalinganagar police station in Orissa. The accused was arrested and sent into judicial custody after the victim's father filed a complaint on 22 July 2009. Preliminary investigations by the Deputy Superintendent of Police revealed that, after the rape incident, the accused's father had met the victim's family and sought her hand in marriage for his son. The accused also threatened to kill the victim's father if he lodged a complaint.<sup>26</sup>

On 20 October 2009, the Ministry of Home Affairs (MHA) stated that Naxals were forcibly recruiting children in areas of south Chhattisgarh. According to MHA, Naxals were forcing the villagers to provide five boys/girls per village for recruitment into their armed squad.<sup>27</sup>

## **Alienation of tribal land**

The 5<sup>th</sup> Schedule and 6<sup>th</sup> Schedule to the Constitution of India provide stringent protection of the land belonging to the tribal peoples. In addition, at the state level, there is a plethora of laws prohibiting sale or transfer of tribal lands to non-tribals. And yet notwithstanding Acts and Regulations to control alienation of tribal land, tribal people are being alienated from their land<sup>28</sup> (See also *The Indigenous World 2009*).

On 17 September 2009, the Jharkhand High Court, while hearing a Public Interest Litigation, summoned the Secretary, Revenue & Land Reforms of Jharkhand government and the Deputy Commissioner,

Ranchi to be present in the Court to explain alleged illegal transfers of about 400 acres of tribal lands to non-tribals, which is illegal under the 5<sup>th</sup> Schedule of the Constitution and the Chotanagpur Tenancy Act, 1908.<sup>29</sup>

In June 2009 the tribals prevented the Revenue Department officials of Andhra Pradesh from acquiring 10,000 ha of land belonging to tribals at Gummuluru and Gogimilli villages in West Godavari district and handing over the same to the Forest Department for development of reserve forest in Illendu area in Khammam district. The state government wanted to acquire the tribal lands in West Godavari district to compensate for the loss of reserve forests in Illendu area in neighbouring Khammam district due to mining by Singareni Collieries Company Limited. The tribal villagers were angry as mining activity has been depriving them of their livelihood in Khammam and West Godavari districts.<sup>30</sup>

## **The conditions of the tribal internally displaced peoples**

### **Development-induced displacement**

Forcible land acquisition has resulted in massive displacement of tribals. The evicted tribals have never been properly compensated or rehabilitated. Across India, tribal people have been protesting against various so-called development projects, such as dams, steel plants, mining etc., but the government fails to heed to their opposition. As the Ministry of Tribal Affairs noted in its Annual Report 2008-2009,

*“Resource rich areas of the country, located largely in the traditional habitats of the Scheduled Tribes, have been looked upon as the resources of the entire country and have been exploited for the nation, unfortunately by extinguishing the rights of the local inhabitants, mainly the Scheduled Tribes, by paying nominal monetary compensation only for land. Tribal communities quite often had their habitats and homelands fragmented, their cultures disrupted, their communities shattered, and have been converted from owners of the resources and well-knit contented communities to individual wage earners in urban agglomerates with uncertain futures and threatened existence.”*

Mining companies in particular usually acquire land “far in excess of requirements” at much cheaper rates.<sup>31</sup>

The tribals have been up in arms at various so-called development projects. On 11 September 2009, thousands of tribal villagers of Potka block in East Singhbhum district of Jharkhand organised a protest rally to oppose the proposed plan to acquire land on the part of industrial companies such as Jindal Steel and Bhushan Steel. The tribal farmers refused to give away their land for industries to set up on and instead demanded that the state government should improve agricultural activities in the region.<sup>32</sup>

In Jharkhand, the tribals have been opposing land acquisitions for various industrial projects in Santhal Pargana.<sup>33</sup> On 6 December 2008, the police fired upon tribals demonstrating at Kathikund in Dumka district of Jharkhand against land acquisition for a proposed power plant by CESC Ltd., a Kolkata-based power company of the RPG Group. Two tribals were killed while several others sustained serious injuries.<sup>34</sup> Despite the killings, the CESC was firm on going ahead with the proposed power plant.<sup>35</sup>

During a two-day public hearing held in Ranchi, Jharkhand, on 7-8 February 2009, the Independent People’s Tribunal headed by Justice Rajinder Sachar, retired Justice of Delhi High Court, reportedly found shocking details about the process of land acquisition in Jharkhand. Justice Sachar stated that from the affidavits and the testimonies of the victims it was evident that the local tribal villagers were being misled and signatures on the documents related to their land were being taken under coercion. Some of these documents even appeared to be forged and fabricated.<sup>36</sup>

The Action Committee Against Tipaimukh Project (ACATP), an umbrella group of about 20 organisations in Manipur, is spearheading the agitation against the proposed 1,500 MW Tipaimukh Multi Purpose Hydel Power project across the Barak River in Manipur. According to the ACATP, the 162.8-foot high dam would submerge 286.2 square km of land owned by tribals. It is estimated that it would affect 27,242 hectares of agricultural land and inundate nearly 100 villages, displacing over 1,300 families, mostly tribals, in Tamenglong district of western Manipur.<sup>37</sup> In addition, the dam will affect 15-20 tribal villages in Mizoram.<sup>38</sup> In Mizoram, the 12-MW Serlui B hydel project is being

constructed across the Serlui river and has forced 80 tribal families from Builum village to resettle at Bawktlang village under Kolasib district. However, some 24 tribal families of Builum village refused to accept the rehabilitation benefits in protest at the failure to provide adequate compensation for the loss of their houses, agricultural lands and farms and gardens. On 15 June 2009, the Asian Centre for Human Rights, a human rights organization, filed a complaint with the National Human Rights Commission alleging that the state government had arbitrarily withdrawn all basic facilities such as rice supply, school and water facilities, healthcare and electricity from Builum village to force these villagers to vacate their homes.<sup>39</sup> Thereafter, the state government of Mizoram constituted a committee to attend to the demands of these 24 aggrieved families.

### **Conflict-induced displacement**

In its annual report released on 31 March 2009, the Asian Indigenous and Tribal Peoples Network estimated that a total of 401,425 tribals have been displaced in India due to armed and ethnic conflicts.<sup>40</sup>

The ethnic conflict between the Dimasas and the Zemi Naga in the North Cachar Hills district of Assam in March led to the displacement of hundreds of people from both communities in May 2009. The immediate cause of the ethnic conflict was the killing of four Zemi Naga tribals in Mahur Sub-division between 19 and 23 March 2009 by suspected cadres of the Dimasa armed group, Dima Haram Daogah (Jowel group). The Naga insurgents retaliated with similar violence. According to the government of Assam, 63 persons were killed in the ethnic conflict. Of these, 39 belonged to the Naga community and 24 to the Dimasa community; 528 houses including 228 houses of Nagas and 300 houses of Dimasas were burnt down.<sup>41</sup> The state government of Assam set up 32 relief camps for the displaced persons. As of 10 July 2009, a total of 11,737 persons were staying in these relief camps. Of these, 6,841 persons belonged to the Naga community and 4,896 to the Dimasa and other communities.<sup>42</sup> In addition, more than 500 Naga villagers fled their homes and escaped to Tousem sub-division in Tamenglong district of Manipur.<sup>43</sup>

Following the killing of a Mizo tribal youth on 13 November 2009 by unidentified criminals at Bungthuam village in Mamit district of

Mizoram, arson attacks took place on the minority Bru (also known as Reang) tribals. Over 500 Bru houses were burnt down in 111 villages in Mizoram and over 5,000 Bru tribals were displaced, with over 2,000 fleeing to Tripura<sup>44</sup> where they joined over 30,000 Brus who have been taking shelter in six relief camps since 1997.

According to Human Rights Watch, between 30,000 and 50,000 tribals have been living in pathetic conditions in Khammam and Warrangal districts of Andhra Pradesh after fleeing their homes in Chhattisgarh due to the Naxalite conflict.<sup>45</sup> In 2009, massive security operations launched against the Naxals in Dantewada district of Chhattisgarh led to fresh displacements of several tribal families who fled into forests and/or took shelter with relatives in other villages.<sup>46</sup> In December 2009, the National Commission for Protection of Child Rights termed the conditions of the tribal Internally Displaced People from Chhattisgarh living on the forest fringes and villages of Khammam district in Andhra Pradesh as an issue of “national concern” and asked the authorities to provide for their basic needs before their sufferings assume epidemic proportions.<sup>47</sup>

### **Displacement for security reasons**

In Mizoram, a total of 35,438 Chakma tribals from 5,790 families in 49 villages will be displaced due to the ongoing India-Bangladesh fencing project. To date there has been no decision to resettle them. In reply to a query under the Right to Information Act 2005 filed by the Asian Centre for Human Rights, the Ministry of Home Affairs (Border Management), Government of India in its reply (No. 11013/52/2009- BM. III) dated 16 December 2009 stated, “Neither this Ministry has prepared any plan for rehabilitation nor any proposal has been received in this Ministry from the Government of Mizoram”.

### **Repression under forest laws**

One year after coming into force on 1 January 2009, the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been very unsatisfactory, depriving tens of thousands of tribals of their rights over forest land.

According to the Ministry of Tribal Affairs, more than 2,663,000 claims have been filed and more than 688,000 titles have been distributed and more than 37,000 titles were ready for distribution under the Forest Rights Act 2006 as of 31 December 2009. Yet, the implementation record of most states remained very poor. For example, Karnataka received 45,801 claims but none of these had been disposed of by the end of 2009, and Assam had disposed of only 12,056 claims out of total 101,454 claims received.<sup>48</sup> In Jhabua district of Madhya Pradesh, where 86% of the population is tribal, the District Level Committee (DLC) set up under the Forest Rights Act 2006 received 1,645 individual claims and one community claim but had approved only 120 of these as of 24 July 2009. The DLC, which is the final authority to accept or reject the claims under Section 6 (6) of the Forest Rights Act 2006, allegedly summarily rejected 228 claims received from Morjhariya and other hamlets of Mohankot village in Petlawad block and all 380 claims received from Rasodhi village in Rama block without providing any reason to the claimants.<sup>49</sup>

The Forest Department officials and the police in Harda district of Madhya Pradesh allegedly prevented tribal farmers from sowing or destroyed their standing crops to deny them right over their plots of land. The forest officials allegedly harassed, tortured and imprisoned tribal villagers by implicating them in false cases.

In February 2009, the entire male population numbering more than 350, including children of Barkitand village in Giridih district in Jharkhand reportedly fled their village after a court issued arrest warrants against them for alleged destruction of forest and encroachment of forestland under the Forest Act. Some of these cases were a decade old.<sup>50</sup>

In October 2009, the Jharkhand government withdrew over 100,000 petty cases registered against the tribals under the Forest Conservation Act. Most of the cases pertained to stealing fruits from forest, cutting woods, grazing cattle, hunting and entering reserved forests without permission.<sup>51</sup>

## **Non implementation of reservation in employment**

According to a 2008 government estimate, 39,728 posts reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) were lying vacant in 2009.<sup>52</sup> On 14 December 2009, *The Asian Age*, a English daily reported

that the Department of Personnel & Training under the Ministry of Personnel, Public Grievances and Pensions in an office memorandum (OM) had proposed de-reserving vacant posts otherwise meant exclusively for the Scheduled Castes (STs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) in the name of “public interest”.<sup>53</sup>

Overall, the government failed to ensure the 7.5% and 15% reservations in government jobs for the Scheduled Tribes and the Scheduled Castes respectively. This is evident from the findings of the Parliamentary Standing Committee on the Welfare of Scheduled Castes and Scheduled Tribes presented to the Parliament on 2 December 2009.

### **Non-utilization and mis-utilization of tribal funds**

Full and proper implementation of various welfare and developmental schemes are necessary for improving the conditions of the tribals. But the state governments have failed to utilize huge amounts of funds meant for tribal welfare. In its report on the Ministry of Tribal Affairs, the Parliamentary Standing Committee on Social Justice and Empowerment found that the Ministry of Tribal Affairs had been surrendering large amount of funds every year for the last 5 years, in 2008-09 amounting to 3.184 billion Rupees (68.07 million USD). The Ministry of Tribal Affairs cited reasons such as the non-receipt of adequate numbers of complete proposals in accordance with the scheme guidelines from the State Governments, non-receipt of Utilization Certificates and lack of physical progress by State Governments, non-filling of vacant posts etc. as the reasons for the surrender of funds. The Committee noted that the steps taken by the Ministry of Tribal Affairs were clearly inadequate as the surrender of funds had been increasing year on year.<sup>54</sup>

Similarly, the Parliamentary Standing Committee on Social Justice and Empowerment found that the Ministry of Tribal Affairs could not release billions of Rupees to States under the schemes of Special Central Assistance to Tribal Sub-Plan and the Grants under First Proviso to Article 275(I) of the Constitution during 2008-09 due to non-utilization of funds during the previous years. Further the Committee found that,

under the various schemes of the Ministry of Tribal Affairs, huge unspent balances were lying with the State Governments.<sup>55</sup> ○

## Notes and references

- 1 Special courts to try cases of atrocities against SC/ST, *The Hindu*, 14 September 2009 available at <http://www.thehindu.com/2009/09/14/stories/2009091454800700.htm>
- 2 *Second Report of Parliamentary Standing Committee on Social Justice and Empowerment (2009-2010)* (Fifteenth Lok Sabha) on Ministry of Tribal Affairs – “Demands for Grants (2009-2010)”, Page 28, available at [http://164.100.47.132/lsscommittee/Social%20Justice%20&%20Empowerment/Report%20for%20DFG%20\(2009-10\)%20of%20Tribal%20Affairs.pdf](http://164.100.47.132/lsscommittee/Social%20Justice%20&%20Empowerment/Report%20for%20DFG%20(2009-10)%20of%20Tribal%20Affairs.pdf)
- 3 Starred question No. 41 in the Lok Sabha answered on 07.07.2009 by Minister of the State in the Ministry of Home Affairs, Shri Ajay Maken, available at <http://164.100.47.132/Annexure/lsq15/2/as41.htm>
- 4 In Chhattisgarh, jail is the cost of filing a public interest litigation plea, *The Hindu*, 17 January 2010, <http://www.hindu.com/2010/01/17/stories/2010011761241000.htm>
- 5 **Javed Iqbal** 2009. Operation tribal hunt?, *The New Indian Express*, 15 November 2009, available at <http://www.expressbuzz.com/edition/story.aspx?Title=Operation%20tribal%20hunt?&artid=IkJdbe8mAgY=&SectionID=XVSZ2Fy6Gzo=&MainSectionID=fyV9T2jla4A=&SectionName=m3GntEw72ik=&SEO=Operation%20Green%20Hunt,Maoists>
- 6 *Burnt in oil: A fact-finding report on operation Green hunt in Dantewada in September-October 2009*. A report from PUCL (Chhattisgarh), PUADR (Delhi), Vanvasi Chetna Ashram (Dantewada), Human Rights Law Network (Chhattisgarh), ActionAid (Orissa), Manna Adhikar (Malkangiri) and Zilla Adivasi Ekta Sangh (Malkangiri), 21 October 2009.
- 7 Asian Indigenous and Tribals Peoples’ complaint to National Human Rights Commission, 20 November 2009
- 8 Alienation of tribals taking a dangerous turn: PM, *The Sentinel*, 6 November 2009.
- 9 Atrocities on SCs/STs disturbing: Manmohan, *The Hindu*, 8 September 2009.
- 10 15 Naxalites killed in encounter: State Police, *The Hitavadaonline*, 9 January 2009.
- 11 Maoists’ killing: HC asks govt to exhume bodies, *The Times of India*, 30 January 2009.
- 12 Top police brass shunted, probe into Jharkhand ‘Naxal encounter’, *The Indian Express*, 2 May 2009.
- 13 Ibid.
- 14 “Burnt in oil: A fact-finding report on operation Green hunt in Dantewada in September-October 2009”, op.cit.
- 15 Ibid.

- 16 Despite Court order, no sign of wounded petitioner, *The Hindu*, 13 January 2010, available at <http://www.hindu.com/2010/01/13/stories/2010011357310100.htm>
- 17 A very special patient, a very special prisoner, *The Hindu*, 16 January 2010, available at <http://www.thehindu.com/2010/01/16/stories/2010011661560100.htm>
- 18 In Chhattisgarh, jail is the cost of filing a public interest litigation plea, *The Hindu*, 17 January 2010, available at <http://www.hindu.com/2010/01/17/stories/2010011761241000.htm>
- 19 Tribal youth killed by Maoists, *The Hindu*, 24 February 2009.
- 20 Naxals kill Chhattisgarh tribal leader, *The Hindu*, 28 April 2009.
- 21 Chhattisgarh resident killed for not attending Maoist meet, *The Deccan Herald*, 1 August 2009.
- 22 JMM leader shot dead in East Singhbhum, *The Hindu*, 5 August 2009.
- 23 NLFT rebels kidnap six Chakmas, *The Hindu*, 3 October 2009.
- 24 NLFT kills 8 Reang villagers, *The Hindu*, 11 November 2009.
- 25 Three SPOs arrested for raping two tribal minors, *The Sentinel*, 9 June 2009.
- 26 Cop jailed for rape, *The Telegraph*, 27 July 2009; and Kalinga Nagar SI arrested for rape, *The Pioneer*, 27 July 2009.
- 27 Naxals forcibly recruiting kids: Home Ministry, *The Tribune*, 21 October 2009
- 28 Committee on the Welfare of Scheduled Castes and Scheduled Tribes (2008-2009) (14<sup>th</sup> Lok Sabha) Thirty-Third Report on Ministry of Tribal Affairs entitled "National Commission for the Scheduled Tribes – Its mandate and achievements – A review of its organisation and working".
- 29 High Court summons officials in illegal tribal lands transfer case, *The Pioneer*, 19 September 2009.
- 30 Tribals up in arms against acquisition of land, *The Hindu*, 22 June 2009 .
- 31 **Ministry of Tribal Affairs**, *Annual Report 2008-09*, Page 198.
- 32 Villagers unite against land acquisition by big industrial players, *The Pioneer*, 12 September 2009.
- 33 Adivasis protest land move, *The Telegraph*, 5 June 2009.
- 34 Nalin reiterates demand for power plant at Kathikund, *The Times of India*, 24 December 2009, <http://timesofindia.indiatimes.com/city/ranchi/Nalin-reiterates-demand-for-power-plant-at-Kathikund/articleshow/5375184.cms>
- 35 CESC firm on power plant in Dumka, *The Telegraph*, 8 December 2008, available at [http://www.telegraphindia.com/1081208/jsp/frontpage/story\\_10221184.jsp](http://www.telegraphindia.com/1081208/jsp/frontpage/story_10221184.jsp)
- 36 Justice Sachar for probe into illegal mutations of tribal land, *The Pioneer*, 9 February 2009.
- 37 Manipur dam will not harm Bangladesh, says India, *The Sentinel*, 3 July 2009
- 38 Dam protesters feel helpless, *The Newslink*, 7 May 2007.
- 39 Communication from Asian Centre for Human Rights, New Delhi.
- 40 **AITPN** , *The State of India's Indigenous and Tribal Peoples 2009*, Page 37.
- 41 Indian Home Minister's Statement in the Rajya Sabha on Situation in North Cachar hills District of Assam, Press Information Bureau, Government of India, 10 July 2009, available at <http://www.pib.nic.in/release/release.asp?relid=50149>
- 42 Ibid.

- 43 Naga seeks aid for displaced, *The Telegraph*, 2 April 2009 available at [http://www.telegraphindia.com/1090402/jsp/northeast/story\\_10760783.jsp](http://www.telegraphindia.com/1090402/jsp/northeast/story_10760783.jsp)
- 44 Information received from Asian Centre for Human Rights (ACHR), available in **ACHR. *The State of Conflict Induced IDPs in India***, a forthcoming report.
- 45 **Human Rights Watch. 2008. *India: Stop Evicting Displaced people***, 13 April 2008, available at <http://www.hrw.org/en/news/2008/04/13/india-stop-evicting-displaced-people>
- 46 *Burnt in oil: A fact-finding report on operation Green hunt in Dantewada in September-October 2009*, op.cit.
- 47 Plight of internally displaced is of national concern: NCPDR, *The Hindu*, 18 December 2009 available at <http://www.hindu.com/2009/12/18/stories/2009121854970500.htm>
- 48 **Ministry of Tribal Affairs. 2010. *Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*** [for the period ending 31st December, 2009], available at <http://www.tribal.nic.in/writereaddata/mainlinkFile/File1190.pdf>
- 49 Jhabua tribals denied land under Forest Rights Act, *The Hindu*, 27 August 2009
- 50 Entire village in Jharkhand faces arrest over felling trees, *The Times of India*, 6 February 2009.
- 51 Jharkhand withdraws 1L cases against tribals, *The Times of India*, 13 October 2009.
- 52 Govt will use secret key to unlock SC/ST quota jobs, *The Asian Age*, 14 December 2009.
- 53 Ibid.
- 54 *Second Report of Parliamentary Standing Committee on Social Justice and Empowerment (2009-2010)* (Fifteenth Lok Sabha) on Ministry of Tribal Affairs – “Demands for Grants (2009-2010)”, Page 18 and 33, available at [http://164.100.47.132/lssccommittee/Social%20Justice%20&%20Empowerment/Report%20for%20DFG%20\(2009-10\)%20of%20Tribal%20Affairs.pdf](http://164.100.47.132/lssccommittee/Social%20Justice%20&%20Empowerment/Report%20for%20DFG%20(2009-10)%20of%20Tribal%20Affairs.pdf)
- 55 Ibid.

*Paritosh Chakma* is Programmes Coordinator at the Asia Indigenous and Tribal Peoples Network (AITPN) based in Delhi, India.