

# THE INDIGENOUS WORLD 2011



# THE INDIGENOUS WORLD **2011**

Copenhagen 2011

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# 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

On 25 November 2010, the Ministry of Tribal Affairs requested that the Prime Minister of India issue suitable instructions for obtaining clearance from the Ministry of Tribal Affairs for a "Rehabilitation and Resettlement Plan" for all the development projects which involve displacement of tribal communities. However, the Ministry received no response from the Prime Minister to this proposal.<sup>1</sup>

On 3 September 2010, an 18-member National Council for Tribal Welfare, headed by the Prime Minister of India, was constituted to provide broad policy guidelines for the implementation and monitoring of welfare schemes for tribals. It is also supposed to review the implementation of the Forest Rights Act, and

monitor the implementation of the Tribal Sub-Plan and programmes aimed at protecting vulnerable tribal groups. The National Council for Tribal Welfare comprises Union Ministers for Tribal Affairs, Finance, Home, Agriculture, Health and Family Welfare, Environment and Forests, Human Resource Development, Rural Development, Woman and Child Development, Culture, Mines and Coal, and Power, the Deputy Chairperson of the Planning Commission and Chief Ministers of concerned states, among others.<sup>2</sup>

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

During 2010, serious human rights violations were perpetrated against indigenous peoples across India.

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

The security forces were responsible for fake “encounter killings”, torture, arbitrary arrests and other human rights violations against indigenous peoples.

On 5 July 2010, joint forces of the police and Central Reserve Police Force picked up a 45-year-old man of the Munda tribe from Gunti village in Ranchi district of Jharkhand and allegedly killed him in cold blood. The police claimed that he was a hardcore Maoist cadre and was killed in an encounter but the family members of the deceased claimed he was innocent. Later, the police arrested a local human rights activist and his school-age son on the charge of possessing Maoist literature, in order to prevent him from taking up the case.<sup>3</sup> Similarly, on 1 August 2010, the police picked up another villager in Ranchi district of Jharkhand and killed him on the accusation that he was a Maoist.<sup>4</sup>

On 2 August 2010, a 55-year-old tribal died due to alleged torture at the hands of personnel from Indian Reserve Battalion at Roing in Lower Dibang Valley district of Arunachal Pradesh.<sup>5</sup>

On 4 August 2010, the Koya commandos<sup>6</sup> allegedly killed a tribal villager at Kutrem village in Dantewada district of Chhattisgarh. According to the villagers, at about 11.30 a.m. on 4 August 2010, the Koya commandos cordoned off Kutrem village and shot him dead as he was coming out of his sister’s house.<sup>7</sup>

On 2 September 2010, a 60-year-old tribal from Dididrisingi village under Patrapur block in Ganjam district of Orissa died allegedly due to torture in a





police lock-up at Jarada police station in Ganjam district. He had surrendered to the police on the night of 1 September 2010 after allegedly killing a boy “accidentally” with his gun while he was hunting in a nearby jungle. Following his surrender, the deceased was held in the police station but found dead the next morning. There were reportedly injury marks on the body of the deceased, including on the left leg, suggesting that he was tortured in police custody.<sup>8</sup>

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

Armed opposition groups continued to be involved in gross violations of international humanitarian law, including killings, abductions and torture during 2010.

The Maoists were the worst violators of the rights of indigenous peoples and continued to kill innocent tribals on charges of being “police informers”, or simply for not obeying their diktats. On 20 July 2010, Maoists dragged out and killed a tribal farmer at Dholdongri village in Purada in Gadchiroli district of Maharashtra, on suspicion of being a “police informer”.<sup>9</sup> On 2 November 2010, a tribal was hacked to death, allegedly by the Maoists, at Sariagaon village under Kankada-hada police station in Dhenkanal district in Orissa.<sup>10</sup> Similarly, on 18 November 2010, Maoists shot dead four tribal civilians, one of them an 8-year-old girl, at Buruhatu village, around 60 km from Ranchi in Jharkhand, on the charge of being police informers.<sup>11</sup>

In Assam, suspected members of the National Democratic Front of Bodoland (the faction opposed to peace talks with the government) killed a 55-year-old villager at Lalboragi village in Sonitpur district on 26 July 2010,<sup>12</sup> and a teacher at Rangapara Gorungjuli Primary School in Sonitpur district on 20 August 2010.<sup>13</sup>

In Tripura, five tribal villagers were abducted, by suspected cadres of the National Liberation Front of Tripura (NLFT), from Boalkhali village in Dhalai district on the night of 29 August 2010.<sup>14</sup> Eleven tribal labourers were also abducted by NLFT from Kunjabari Junior Basic School in Gobindabari under Chhawmanu police station in Dhalai district on 7 December 2010 and a huge ransom demanded for their release.<sup>15</sup>

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

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

On the night of 12 October 2010, a tribal woman was allegedly raped by Koya commandos of Chhattisgarh Police during a raid in Bade Bidme panchayat in Dantewada district of Chhattisgarh. The victim stated that she was sleeping when four uniformed policemen forced their way into the house at 2 a.m. and raped her.<sup>16</sup>

Indigenous and tribal women were also targeted by non-tribals. On the night of 31 July 2010, a 26-year-old tribal woman was allegedly abducted and raped at gun point by four upper-caste persons, including a District Panchayat President, at Meni Mata area under Silavd police station in Barwani district of Mad-

hya Pradesh.<sup>17</sup> Similarly, on 27 September 2010, a tribal woman was raped and killed by a non-tribal at Sipahipara village under Sadar Sub-Division in West Tripura district of Tripura.<sup>18</sup>

On 28 October 2010, a 17-year-old was allegedly tortured in the custody of William Nagar police station in East Garo Hills district of Meghalaya. The child was picked up from Medical Colony for reportedly trying to create trouble. The victim was slapped, punched and kicked by the police in custody, resulting in multiple bruises and swelling all over his body. The victim also sustained internal injuries.<sup>19</sup>

### **Violation of the fundamental right to education**

The children's fundamental right to education has been severely affected due to armed conflict, and has been grossly violated both by the state and the armed opposition groups. While the security forces have occupied schools, the Maoists have bombed several schools to deny the right to education.

On 27 October 2010, the state government of Chhattisgarh told the Supreme Court of India that the security forces were occupying 31 schools, *ashrams* (tribal hostels) and hostels but claimed that alternative arrangements had been made to ensure that the children's education was not affected.<sup>20</sup> On 18 November 2010, the Supreme Court asked the state government of Chhattisgarh to immediately "vacate the schools".<sup>21</sup>

Across the North Eastern region of India, it is not only the central security forces under the Ministry of Home Affairs but also state security forces (Police, Armed Police, Commandos, State Rifles, Indian Reserve Battalions) that have been occupying schools. On 1 September 2010, the Supreme Court of India directed the Ministry of Home Affairs "to ensure that the paramilitary forces vacate the school and hostel buildings occupied by them and submit an Action taken report to this Court as well as NCPDR [National Commission for Protection of Child Rights] within two months". The court also directed the Deputy Commissioner of North Cachar Hills district in Assam to "ensure that the schools, hostels and children home complex presently occupied by the armed/security forces are vacated within a month's time and it should be ensured that the school buildings and hostels are not allowed to be occupied by the armed or security forces in future for whatsoever purpose." According to the Asian Centre for Human Rights,

Assam has not complied with the directions of the Supreme Court to ensure that the security forces vacate the schools. As of 8 November 2010, at least two schools in Assam were still being occupied by the security forces under Udalgiri district: Routa Bagan Lower Primary School in Udalguri district occupied by the Indian Reserve Battalion (Mizo) and Khwirasal Lower Primary School, Bhakatpara under Udalgiri district occupied by the Assam Rifles.<sup>22</sup>

The Maoists also targeted schools on the grounds that these buildings were being used to house security personnel during anti-Maoist operations. In Orissa, the Maoists allegedly destroyed eight schools in Sundargarh, Malkangiri and Koraput districts in 2010.<sup>23</sup> On the night of 8 August 2010, Maoists blew up a school building at Kanda village in Palamau district of Jharkhand.<sup>24</sup>

### **Alienation of tribal land**

The 5<sup>th</sup> and 6<sup>th</sup> Schedules to the Constitution of India provide stringent protection of the land belonging to the tribal peoples. In addition, at state level, there is a plethora of laws prohibiting the sale or transfer of tribal lands to non-tribals and restoration of alienated tribal lands to them. And yet, notwithstanding Acts and Regulations to control the alienation of tribal land, tribal people are seeing their land taken from them.

On 12 November 2010, the Minister of State in the Ministry of Tribal Affairs informed the Lok Sabha (Lower House of Parliament) that, as of July 2010, a total of 477,000 cases of tribal land alienation had been registered, covering 810,000 acres of lands, of which 378,000 cases covering 786,000 acres had been decided by the Court. Of these, 209,000 cases had been decided in favour of tribals, covering a total area of 406,000 acres.<sup>25</sup> This means that 169,000 cases had been decided against the tribals.

On 30 July 2010, Kerala's Forest Minister Benoy Viswom admitted that the illiterate tribal communities were being either dispossessed of their land or reduced to bonded labourers on their own land by corporate giants and real estate agencies through manipulation of land records and *benami* (illegal) transfers.<sup>26</sup> Since 1960, a total of 10,796.19 acres of tribal land have been alienated in Attappady region under Palakkad district in Kerala. As of 24 July 2010, only two acres had been restored although the Revenue Divisional Officer (RDO) of Ottapalam received 2,422 applications for restoration of land in 1996. In 13 other cases, an

area of 44.77 acres was restored but tribals did not obtain actual possession of the land.<sup>27</sup> In one specific case, Suzlon Energy, a multi-national company, was accused of running wind farms on illegally-bought land in tribal settlements and forest lands in the Attappady region in Palakkad district.<sup>28</sup> In a report submitted to the state government in July 2010, District Collector K V Mohan recommended a detailed investigation into the land deals conducted by Puna-based Sarjan Realities, which arranged the land for Suzlon Energy's wind farms.<sup>29</sup>

On 24 August 2010, the Ministry of Environment and Forests rejected the proposed bauxite mining project of Vedanta Resources in the Niyamgiri Hills in Kalahandi district in Orissa for violations of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act 2006, Environment Protection Act 1966, and the Forest Conservation Act 1980.<sup>30</sup> With regard to the proposed bauxite project in the Niyamgiri Hills, in a report tabled in both Houses of Parliament on 16 November 2010, the Parliamentary Standing Committee on Social Justice and Empowerment took a "strong objection to the displacement of the primitive tribal groups i.e. the *Dongoria Kandhas* and the *Kutia Kandhas* settled in the Niyamgiri Hills in the State of Orissa and destruction of undisturbed forest land endangering and harming their self-sufficient forest livelihood due to the proposed Bauxite Mining Project." The Parliamentary Standing Committee further criticized the Ministry of Tribal Affairs for its failure to protect the rights of the indigenous peoples.<sup>31</sup>

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

### **Development-induced displacement**

On 23 April 2010, the Minister of State in the Ministry of Tribal Affairs admitted in the Lok Sabha that displacement of tribal communities from their traditional habitats had taken place on account of the acquisition of their lands by State Governments/Union Territory Administrations for various development projects. Ironically, the Ministry of Tribal Affairs did not maintain data on such displacements.<sup>32</sup>

Not only does the state have no proper data on the displacement of tribals, it also remains indifferent towards the plights of the tribals, who have been denied rehabilitation and compensation following acquisition of their lands for development projects. In 1982-83, the Border Roads Organisation acquired land in Madgram village in Lahaul and Spiti district in Himachal Pradesh for construc-

tion of the Sansari Nallah-Killar-Thirot road but, as of September 2010, the tribal land owners had received no compensation. The tribal victims took the matter to the National Commission for Scheduled Tribes, which directed the concerned authority to pay compensation amounting to 71,681,292 Rupees (1,572,650 US\$). This direction has not, however, been complied with.<sup>33</sup>

### **Conflict-induced displacement**

As of 28 July 2010, there were a total of 27,261 Bru (displaced from Mizoram in 1997 and 2009) living in six relief camps in Kanchanpur subdivision in North Tripura district.<sup>34</sup> The first phase of repatriation of the Bru tribals displaced due to ethnic violence in November 2009 took place from 21 May to 26 May 2010, and a total of 231 Bru families consisting of 1,115 persons returned to Mizoram on the basis of a written assurance provided by the Ministry of Home Affairs (MHA), Government of India to the Brus through the Asian Centre for Human Rights (ACHR). The MHA sanctioned grants-in-aid of Rs. 20.43 million Rupees (448,223 US\$) to the state government of Mizoram to cover expenditure on the repatriation and rehabilitation of Bru families who had fled to Tripura in November 2009.<sup>35</sup> Another 53 Bru families were repatriated to Mizoram on 3-4 November 2010.<sup>36</sup>

### **Repression under forest laws**

Although the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 came into force on 1 January 2009, lack of proper implementation has deprived tens of thousands of tribals of their rights over forest land. According to the Ministry of Tribal Affairs, more than 3.031 million claims have been filed, more than 1.106 million titles have been distributed and more than 32,000 titles were ready for distribution as of 31 December 2010. Yet the implementation record of most states remains very poor. Twelve States and Union Territories have thus far not distributed any titles at all: Arunachal Pradesh, Bihar, Goa, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Sikkim, Tamil Nadu, Uttaranchal, Daman & Diu, and Dadra & Nagar Haveli. None of the states that have been implementing the Forest Rights Act has an impressive record. In terms of percentage of titles distributed over number of claims received, Tripura leads the pack with 66.89%, followed by Orissa (56.22%), Andhra Pradesh

(50.80%), Rajasthan (49.84%), Chhattisgarh (43.73%), Kerala (39.42%), Maharashtra (30.84%), Assam (26.01%), Madhya Pradesh (26.75%), Jharkhand (20.57%), West Bengal (19.75%), Tamil Nadu (14.52%), Gujarat (13.41%), Uttar Pradesh (11.04%) and Karnataka (3.85%).<sup>37</sup> In Maharashtra, demands for land rights under the Forest Rights Act in fact led to the arrest of at least 1,962 Adivasis in Nandurbar district on 14 December 2010.<sup>38</sup>

On 30 and 31 October 2010, Forest Department officials of Haltugaon Forest Division in Kokrajhar district of Assam burnt down the houses of more than 1,500 Adivasi families from 33 forest villages in Longchung Forest area in the name of an eviction drive from forest land. Locals alleged that forest officials set fire to several pre-primary and primary schools, houses, temples and churches, and that all household belongings were burnt or destroyed. These Adivasi people had been living in these forest villages for generations.<sup>39</sup>

Earlier, on 11 July 2010, police and Forest Department officials under Pangadi gram panchayat in Khammam district in Andhra Pradesh, allegedly beat up tribals while they were in their fields. Several tribals, including women and children, were reportedly injured in the assault.<sup>40</sup>

On 9 July 2010, a tribal from Devli Kuwa, a tribal village under Rajgadh police station in Panchmahal district of Gujarat, was assaulted by five forest guards as he was tilling his ancestral land in the forest.<sup>41</sup> In Madhya Pradesh, on 6 September 2010, a demonstration was organized by members of tribal communities at the Chief Minister's residence under the banner of the two Adivasi organizations, Samajwadi Jan Parishad and Shramik Adivasi Sangathan, to protest at the alleged atrocities by the forest officials. The tribal protestors alleged that 100 to 150 forest personnel, 100 police personnel and 200 other villagers had destroyed nearly 50 huts of tribals at Kamtha in West Betul forest division and looted their properties.<sup>42</sup>

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

The Scheduled Tribes (STs) are legally entitled to 7.5% reservation in all government jobs. The lack of "suitable" candidates amongst the STs has often, however, been cited as the main reason for not filling the reserved vacancies in India.

As of 19 December 2010, as many as 3,834 posts reserved for Scheduled Tribes and 2,052 posts reserved for Scheduled Castes in various government

departments had been vacant for the past three years in Andhra Pradesh. The state government identified these “backlog posts” in 2007, and issued orders directing the respective departments to fill the posts within six months; the departments have, however, failed to comply.<sup>43</sup>

In a report entitled “Reservation for and Employment of Scheduled Castes and Scheduled Tribes in Bharat Heavy Electricals Limited (BHEL)”, presented to Parliament on 23 November 2010, the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes noted that “even in Group D posts where the requirement of education qualification might not be high, the number of ST in Group D posts is only 3.11% of the total Group D strength” as opposed to the prescribed limit of 7.5% reservation of STs. The Committee further found that, as per updated information furnished to the Committee in November 2009,

*the promotions given to STs, especially in Group ‘A’ and ‘B’ posts is very dismal and for Group ‘C’ posts the figure was still low. The Committee are of the view that non-availability of SC/ST candidates in the feeder cadre for promotion is wholly the failure of the Management in not being able to recruit enough SCs/STs in the feeder grade due to its lack of commitment towards the welfare and development of SCs and STs.<sup>44</sup>*

Further, in a report entitled “Reservation for and Employment of Scheduled Castes and Scheduled Tribes in Punjab and Sind Bank and credit facilities provided by the Bank to them”, presented to the Parliament on 28 July 2010, the Committee on the Welfare of Scheduled Castes and Scheduled Tribes noted that, as of 1 January 2008, there was a shortfall of 4.20% of STs in the Officers category, a shortfall of 5.89% of STs in the Clerical category and a shortfall of 4.82% of STs in the Sub-Staff category. Since the lack of “suitable” candidates had been cited as one of the reasons for not filling the reserved vacancies, the Committee wanted to know what constituted “suitability” for each of the vacancies for which Punjab and Sind Bank had not selected candidates.<sup>45</sup>

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

The funds meant for development of the tribals are grossly under-utilized or mis-utilized in India. In its report on the Ministry of Tribal Affairs, the Parliamentary



Standing Committee on Social Justice and Empowerment found that, during 2009-10, the Ministry of Tribal Affairs had been forced to withhold funds for crucial schemes, including the Special Central Assistance to Tribal Sub Plan, Grants under Article 275(i) of the Constitution, the Scheme of Development of Particularly Vulnerable Tribal Group etc. from various state governments due to their failure to submit utilization certificates for funds from previous years. Since the Ministry of Tribal Affairs depends on states to execute various planned schemes for the development of tribal welfare, delay, non-submission or incomplete proposals from states are a major cause of the under-utilization of funds. The Committee was informed by the Ministry of Tribal Affairs that if state governments were not performing, the Ministry had no power to press beyond a point. The budgetary allocation of 32.055 billion Rupees (US\$703,269 million) for 2009-10 has been drastically reduced to 2 billion Rupees (US\$43,879 million) in the revised estimates of the Ministry of Finance, taking into account the utilization of funds by the Ministry up until the third quarter of the financial year.<sup>46</sup> ○

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