

THE INDIGENOUS WORLD 2012



THE INDIGENOUS WORLD **2012**

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THE INDIGENOUS WORLD 2012

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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.

Violent conflicts broke out in indigenous areas all over the country, but above all in the Northeast and the so-called "central tribal belt". Some of these conflicts have lasted for decades and continue to be the cause of extreme hardship and serious human rights violations for the affected communities.

The Indian government voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the UN General Assembly. However, it does not consider the concept of "indigenous peoples", and thus the UNDRIP, applicable to India.

Legal rights and policy developments

The Land Acquisition, Rehabilitation and Resettlement Bill 2011, which seeks to replace the controversial Land Acquisition Act of 1894 and provides for

mechanisms of land acquisition and adequate rehabilitation for all affected persons, was introduced in the *Lok Sabha* (Lower House of Indian Parliament) during the Monsoon Session on 7 September 2011 by Rural Development Minister, Jairam Ramesh. The Bill was referred to the Parliamentary Standing Committee on Rural Development for examination and report within three months.¹ Although inadequate, the Bill provides a safeguard, for the first time, in terms of ensuring that land acquisition would require prior consent of at least eighty per cent of the “project affected” people where the government acquires land for the purpose of transferring it to private companies.

The National Tribal Policy, a draft of which was ready as early as May 2007, has been hanging fire. In 2011, the Parliamentary Standing Committee on Social Justice and Empowerment urged the Ministry of Tribal Affairs to “expedite the matter and get the final nod for the National Tribal Policy at the earliest so that the benefits of this important Policy really accrue to the needy and poor tribals.”² The draft policy seeks to address the issues concerning tribals, such as their lower Human Development Index, poor infrastructure, diminishing control over the natural resource base, threats of eviction from their territories, exclusion from mainstream society, inadequate implementation of constitutional provisions etc, and to ensure their active and informed participation in development.

Human rights violations against indigenous peoples

According to the latest report of the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, a total of 5,885 cases of atrocities against indigenous peoples/tribals were reported in the country during 2010, as compared to 5,425 cases in 2009, showing an increase of 8.5% over the year. The NCRB statistics are not yet available for 2011 but a large number of cases of serious human rights violations perpetrated against indigenous peoples were reported across India.

Human rights violations by the security forces

In 2011, the security forces were responsible for alleged fake “encounter killings”, torture, arbitrary arrests and other human rights violations against indigenous peoples.



During a five-day anti-Maoist operation in Dantewada district of Chhattisgarh from 11 to 16 March 2011, the security forces (comprising Koya commandos from Chhattisgarh police and the Central Reserve Police Force's elite unit Combat Battalion for Resolute Action (CoBRA)) allegedly killed three tribal villagers, criminally assaulted three tribal women and burnt down around 300 houses and granaries in three villages, namely Morpalli, Timapuram and Tarmetla.³ On 27 March 2011, Chhattisgarh Home Minister Nankiram Kanwar confirmed that the security forces had raided these three villages but claimed that it was the Maoists who had burnt down the houses.⁴ On 26 January 2011, Washing N Marak, a 50-year-old tribal, was killed in an alleged fake encounter by the Special Operations Team of Meghalaya Police, at Rongrekgre village under Williamnagar police station in

East Garo Hills district of Meghalaya. The police also arrested four persons, three of them youths, on charges of being cadres in the Garo National Liberation Army, a militant group. However, villagers alleged that the deceased and the four arrested people were innocent, that the deceased was killed in a fake encounter and that the arrested youths were tortured, during which one sustained injuries to his face.⁵

On 15 April 2011, Haresh Chakma, a tribal, was tortured by three Special Police Officers (SPOs), first at Hemshuklapara village and then at Laljuri police outpost in Kanchanpur subdivision of North Tripura district in Tripura state. The victim sustained serious injuries and had to be admitted to hospital. The authorities confirmed torture of the victim in a report to the National Human Rights Commission.⁶

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 2011.

The Maoists continued to kill innocent tribals on charges of being “police informers”, or simply for not obeying their diktats. During 2011, the Maoists allegedly killed several tribals, including Wadeka Nasanna at Dandabadi village in Koraput district of Odhisa on February 16;⁷ Dilu Habika in Narayanpatna block of Koraput district of Odhisa on July 23;⁸ Nachika Suka in Koraput district of Odhisa on July 25;⁹ five tribal villagers at Banda village in Rohtas district of Bihar on the night of July 30;¹⁰ a village leader, Krushna Punji, in Balangir district of Odisha on November 14;¹¹ two tribal youths identified as D. Sivaprakash Koti and T. Bojjibabu at Kampumanapakala village in Visakhapatnam district of Andhra Pradesh on November 27,¹² among others.

On 7 June 2011, eight tribal villagers were kidnapped at gunpoint from Owanasa Para village under Gandacherra police station of Dhalai district of Tripura by suspected cadres of the National Liberation Front of Tripura (NLFT).¹³ Furthermore, on 30 June 2011, six tribals were kidnapped from Ujanbari Reang Para under Nutun Bazar police station in South Tripura district by NLFT cadres for a ransom.¹⁴

Violence against indigenous women and children

Indigenous women and children continue to suffer from various forms of violence, including killing, rape and torture by non-tribals, security forces and members of

the armed opposition groups in armed conflict situations. According to the latest NCRB report referred to above, a total of 654 cases of rape of indigenous/tribal women were reported in 2010 as compared to 583 cases in 2009, an increase of 12.2% on the year.¹⁵ The situation does not seem to have improved in 2011, as the cases included here show.

On 4 October 2011, Ms Soni Sori, a 36-year-old Adivasi school teacher, was arrested in New Delhi for her alleged role in receiving "protection money" from the Essar company on behalf of the Maoists. She was allegedly tortured in police custody in Dantewada, Chhattisgarh.¹⁶ The victim moved the Supreme Court with her allegations of police torture. On the directions of the Apex Court, she was taken from Chhattisgarh and examined by doctors at the NRS Medical College and Hospital in Kolkata for injuries allegedly sustained in police custody. A report submitted by the Kolkata hospital to the Supreme Court reportedly stated that the doctors had found two stones in her private parts and rectum.¹⁷

Earlier, on 19 February 2011, a 27-year-old tribal woman, Nilima Debbarma was allegedly gang-raped and killed by personnel from Tripura State Rifles (TSR) near the 6th TSR Battalion camp at Shikaribari village in the West District of Tripura.¹⁸ On 23 February 2011, a 15-year-old minor tribal girl was allegedly raped by a TSR personnel identified as Tejendra Barui at Nandakumarpara village in Khowai subdivision in West Tripura district.¹⁹ On 15 May 2011, a tribal girl was allegedly raped by two police constables inside the Chhoti Sadri police station in Pratapgarh district of Rajasthan after taking the victim to the police station on the pretext of interrogating her in connection with a case.²⁰ On the night of 10 September 2011, the personnel of Sasashtra Seema Bal (SSB)²¹ forced their way into a house and allegedly raped a deaf and dumb Bodo tribal woman at Sonapur village near the Indo-Bhutan border in Kokrajhar district of Assam. The report submitted by the Assam government stated that the forensic tests found human semen in the victim's swab.²² On 22 November 2011, four tribal girls including a minor were allegedly picked up from their house and raped by four police personnel at Thirukovilur in Villupuram district of Tamil Nadu.²³

The fundamental right of children to education has been severely affected by the armed conflicts. The security forces continued to occupy educational institutions in conflict-affected areas. On 18 January 2011, the Supreme Court directed the Chhattisgarh government to vacate all school buildings under the occupation of security forces within four months.²⁴ On 7 March 2011, the Supreme Court directed the Jharkhand and Tripura governments to ensure that all schools and

hostels are free from the occupation of security forces within two months. Twenty-one schools in Jharkhand and 16 in Tripura were still being occupied by the security forces.²⁵

Alienation of tribal land

The 5th Schedule and 6th 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 the sale or transfer of tribal lands to non-tribals and the restoration of alienated tribal lands to them. However, the laws are either not properly implemented or they are manipulated to facilitate the transfer of tribal lands to non-tribals. On 12 November 2010, the Minister of State in the Ministry of Tribal Affairs informed the Lok Sabha that, as of July 2010, a total of 477,000 cases of tribal land alienation had been registered, covering 810,000 acres of land, 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.²⁶ This means that 169,000 cases had been decided against the tribals.

On 24 July 2011, Mukul Sangma, Chief Minister of Meghalaya state in North East India, stated that “benami (illegal) transactions” had contributed to the alienation of tribal lands in the state and that there was an urgent need to amend the Meghalaya Transfer of Land Regulation Act 1971 to curb illegal transfer of tribal lands to non-tribals.²⁷

The conditions of the tribal internally displaced people

Development-induced displacement

There is no official figure for displacements due to development projects. It is estimated that at least 60 million people have been displaced by development projects across the country since 1947. Of these, over 40 per cent are tribals and another 40 per cent are Dalits and other rural poor.²⁸ The state is totally indifferent towards the plights of the tribals, who have been denied rehabilitation and compensation after their lands were acquired for development projects.

Conflict-induced displacement

The government has failed to ensure proper repatriation and rehabilitation of the conflict-induced internally displaced people (IDP), including tribals. In 2011, the Assam government “resettled” the Rabha and Garo tribal IDP families after providing a rehabilitation grant of only 10,000 Rupees (US\$ 190) in cash and three bundles of corrugated galvanised iron (CGI) sheets to each family although they had lost everything in the communal clashes.²⁹

At least 30,000 Bru tribals from Mizoram have been languishing in the relief camps in neighbouring Tripura state since 1997. A total of 799 Bru tribal families, consisting of 4,119 individuals, have been repatriated to Mizoram since 2010 but, on 5 June 2011, the Mizoram government suspended the repatriation process, demanding the rehabilitation of 80 Mizo families first.³⁰

At least 30,000 Gutti Koya tribals from Chhattisgarh have been living in miserable conditions in Khammam, Warangal and East Godavari districts of Andhra Pradesh.³¹ They have been denied basic facilities such as healthcare, schooling, adequate food, housing and jobs under the Mahatma Gandhi National Rural Employment Guarantee Scheme. Their huts were demolished by the forest officials in the Nellipaka reserve forest area near Mondikunta village in Khammam district on 11 May 2011,³² and again in the Ramavaram forest range near Chinthalapadu village in Khammam district on 2 June 2011.³³

Repression under forest laws

Although the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act came into force on 1 January 2009, lack of proper implementation has deprived tens of thousands of tribals of their rights to forest land. According to the Ministry of Tribal Affairs, as of 30 September 2011, a total of 3,149,269 claims had been received, of which 2,808,494 had been dealt with. Of these, 1,230,663 titles had been distributed and 1,577,83 claims rejected,³⁴ meaning that 56% of the claims that have been considered have been rejected. Studies by the National Committee on the Forest Rights Act (a government committee jointly set up by the Ministry of Tribal Affairs and the Ministry of Environment & Forests) found that the majority of the rejections were unlawful and that the claimants were denied any opportunity to appeal. On 4 March 2011, Minister

of State in the Ministry of Tribal Affairs Shri Mahadeo Singh Khandela admitted in the Lok Sabha that: "Complaints have been received over a period of time concerning denial of rights and eviction of tribals from forests etc."³⁵

In December 2011, tribals held rallies in Adilabad, headquarters of Jannaram mandal in Adilabad district of Andhra Pradesh, in protest at the government's proposal to develop Kawal wildlife sanctuary as a tiger reserve forest by evicting Adivasis who have lived there for a long time.³⁶

Non-implementation of reservation in employment

The Scheduled Tribes (STs) are legally entitled to a 7.5% reservation of all government jobs. A lack of "suitable" candidates amongst the STs has, however, often been cited as the main reason for not filling the reserved vacancies in India. As of 25 July 2011, there were a total of 20,301 posts reserved for STs lying vacant in central government.³⁷

Non-utilization and mis-utilization of tribal funds

The funds meant for the development of the tribals are grossly under-utilized or mis-utilized in India. In a recent report, the Parliamentary Standing Committee on Social Justice and Empowerment found that, during the year 2010-11, the Ministry of Tribal Affairs had surrendered funds to the tune of 729.7 million Rupees (US\$ 15.5 million) under the crucial schemes of Special Central Assistance to Tribal Sub Plan (102.4 million Rupees), Grants under Article 275 (1) of the Constitution (66.6 million) and Development of Primitive Tribal Groups (103.2 million). The Ministry of Tribal Affairs allocates funds under SCA to TSP annually to all the 22 states covered under the programmes but, during 2008-09, as many as nine states, during 2009-10 20 states and during 2010-11 eight states have not availed themselves of the entire allocation, resulting in a gross under utilization of funds earmarked for the scheme. States such as Assam, Goa, Tamil Nadu, Jammu & Kashmir, Kerala, Uttarakhand, Uttar Pradesh etc. have not availed themselves of any funds for two consecutive years. Similarly, during 2010-11, under the Article 275(1) grants scheme, out of the budgetary allocation of Rs. 10.46 billion Rupees (US\$ 208.5 million), only 9.9989 billion (US\$ 199.34 million) was utilized. Non-

submission/belated submission of complete proposals, along with the requisite utilization certificates from previous years etc., from the states of Andhra Pradesh, Assam, Goa, J&K, Meghalaya, Tamil Nadu, Uttar Pradesh and Uttarakhand, have been cited as the reasons for not releasing the amount under the scheme.³⁸ ○

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