



STATUS REPORT

Land Rights and Ownership in

# Orissa





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August 2008

The project 'Social Mobilisation around Natural Resources Management for Poverty Alleviation' was launched in December 2003 by the Ministry of Rural Development (MoRD), Government of India and the United Nations Development Programme (UNDP). Supporting the Government of India's commitment to expand self employment opportunities for the poor, the project specifically targeted poor women and marginalised communities and was implemented through 17 NGO partners in 11 districts across three states – Jharkhand, Orissa, and Rajasthan.

Access to land is acutely important in rural India, where the incidence of poverty is highly correlated with lack of access to land. This study focuses on the situation of land rights and ownership in the state of Orissa, with a focus on the landless, women and people from the Scheduled Tribes. It traces the history of land reforms in Orissa followed by a comprehensive analysis of the impact of existing land legislation, the various land distribution schemes of the state government and the Forest Rights Bill (2006). The study also examines issues of land acquisition, transfer and alienation linked with industrialization, mining, development induced displacement and commercial agriculture. Finally, the study provides concrete suggestions to improve access of the poor to land and highlights the need to arrest processes that are promoting land alienation.

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Manufactured in India

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## Introduction

One of the major problems for the vast majority of the rural population in India is the inadequate or almost non-existent access to fertile land. Rural poverty in India, as we all know, has its roots in the absence of access to land. Secure access rights to land are also an imperative for food security. Without land security, efforts to use natural resources in a sustainable manner may not be fruitful<sup>1</sup>. According to recent statistics from the Food and Agriculture Organization, the majority of the world's hungry – 508 million out of a total of 800 million people – live in Asia, where hunger is virtually synonymous with the small and marginal farmers and landless.

The skewed nature of land distribution in India is reflected in the fact that approximately two percent of landholders<sup>2</sup> own 25 percent of the land whereas 98 percent of the landholders<sup>3</sup> own just 75 percent of the land. Around 43 percent of rural households in the country are landless. In order to bring a balance and bridge the gap between the poor landless and the rich landed peasantry, a number of land reforms legislations were promulgated after Independence. The State of Orissa also initiated a number of legislative reforms to improve access to land.

The Orissa Land Reforms Act 1960, was regarded a watershed in giving land rights to the tenants. It was meant to go beyond the ideological goal of 'land to the tiller' and achieve the more pragmatic objective of promoting proper and effective utilization of land in an effort to increase food production in the state - and the country, by extension. Though a number of progressive legislations were promulgated in Orissa after independence, their implementation remains a major concern. The Land Ceiling Act was enacted in 1974 with the intention of bringing economic and social justice amongst the weaker sections of the society. Its objective was to acquire surplus land by the Government and redistribute it among landless to improve the economy and living standards of the weaker sections of society. As per ceiling surplus rules, land up to 0.7 standard acres was allotted to the landless persons for agricultural purpose. The ceiling surplus operation failed to yield the desired result because of lack of actual physical possession by the beneficiary, unavailability of record of rights, and poor land quality making it almost impossible for him/her to cultivate the land and at times even identify it. A number of beneficiaries have *pattas* for ceiling surplus land allotted to them but the land is still under possession of the previous owners.

The government responded to repeated appeals from tribal and civil society organizations, by coming out with a campaign called *Mo Jami Mo Diha* (My Land and My Homestead land), launched in 2007 to ensure possession within a stipulated time. It is generally believed, however, that the amount of illegal land transfer is much more than what is reflected in government records and the process of ensuring actual possession in the above cases has not been an unqualified success.

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<sup>1</sup> The distribution of land tenure is extremely uneven: even though 75 percent of the world's poor and undernourished live in rural areas and their food supply, according to the Food and Agriculture Organization, could be significantly improved by giving them access to land, half the world's arable land is owned by only 4 percent of the world's landowners - most of whom are either large estate owners or multinationals.

<sup>2</sup> Who have a landholding of more than 10 hectares.

<sup>3</sup> Who have a landholding of less than two hectares.

With regard to land availability and number of landless, coastal and tribal Orissa present a very interesting trend. If the coast is facing the problem of increasing landlessness and less land available for distribution with more and more land getting converted to non-agricultural purpose, in tribal Orissa it is the other way around, i.e., less landless and more land for distribution. However, for some reason landlessness still continues in tribal Orissa. Additionally, land that has been received in donation under *Bhoodan* remains either undistributed or has been reoccupied by the previous owner.

Women's rights over land is a crucial issue for any developing society as it is directly linked to right to food, work and other human rights. The denial of inheritance of land rights especially in a patriarchal system has contributed to the subordinate status of women. The Government of Orissa has decided to distribute all such land under ceiling surplus to landless people with high priority being given to landless widows and unmarried women up to 30 years of age, as well as to joint *patta* for the husband and wife. Still, significant gaps exist between women's land rights and their actual ownership and possession.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, provides for recognition and vesting of forest rights to Scheduled Tribes in occupation of forest land prior to December 2005 and to other traditional forest dwellers who have been in occupation of forest land for at least three generations, i.e., 75 years, and up to a maximum of 4 hectares. As per the Act, the Gram Sabha is the competent authority to initiate the process of determining the nature and extent of forest rights of individuals/community. There are many misconceptions with reference to this Act on the part of both the tribals and other forest dwellers and on the part of government officials.

With all elaborate provisions of land entitlement under different schemes and Acts, the threats of land going out of the hands of the farmers, still remains a major concern. The current form and mode of industrialisation with special focus on Special Economic Zone may threaten laws and policies protecting rights within the scheduled areas. There have already been legal initiatives to dilute the stringent land transfer regulations, which may be detrimental to the people. On the one hand, there are set of laws that protect the rights of the people, while on the other hand some new ventures and policies prioritise exploitation of natural resources at the cost of food security.

Orissa is one of the mineral rich states of the country and recently it has signed numerous accords for private investment in the mining and industrial sector. This is expected to cause massive deforestation in the ecologically fragile coastal areas and drought prone western and southwestern Orissa, and resultant loss of farm land influencing both livelihood and food security as well as the micro and macro environment.

The growing popularity of cash crops in Orissa has not resulted in any substantial land use change but the selection of crops and pattern has a serious repercussion on the land ownership and food security situation, especially in the tribal areas. On the land front, large tracts of tribal – both *patta* and forest land – are being leased out to traders from adjoining states for commercial farming. The land when it comes back to the tribals after the lease period is over is almost barren and hardly cultivable due to excessive use of fertilizers and pesticides. The incessant growing of cash crops is



invading the area used for growing traditional varieties of cereals, millets and pulses. Production of these varieties has already gone down leading to a price hike with food scarcity and nutritional imbalance to follow.

Land distribution to the landless and ensuring their physical possession has remained a major area of concern. Besides, land of all categories is under tremendous stress because it is being slowly though consistently acquired for non-food use. This has an adverse impact on the small and marginal farmers because it results in the gradual loss of land. If loss of agricultural land is a matter of concern in coastal Orissa, in the tribal hinterland, it is the diversion of forests that is causing loss of livelihoods and ultimately forced or voluntary eviction. Interestingly, the field is being set through legal and administrative initiatives in the form of changes in the Orissa Land Reforms Act and quicker and smoother forest clearance processes to make such diversions easier. Moreover, the invasion of cash crops in the western and south-western parts of the state is constantly influencing the food security situation - non-edible cash crops take the place of food grains. This trend is likely to create a food crisis if it is not prevented soon.

While there are many suggestions to improve the situation, state Governments can make a start by setting up special Land Tribunals to expeditiously dispose of cases related to land distribution and entitlement within a specified time limit. Monitoring cells may also be set up to watch the disposal of cases involved in litigation. Finally, the state government needs to seriously review issues of land acquisition, transfer and alienation linked with industrialization, mining, development induced displacement and commercial agriculture.

# 1. History of Land Settlement, Reforms and Legislation in Orissa

*The chapter discusses different land revenue assessment systems prevalent in India, particularly in Orissa both during the pre and the post colonial phases. It also discusses the provisions and impacts of existing land legislations of Orissa, besides the history and objectives of land reforms in the state.*

The colonial administration came to Orissa towards the late 18<sup>th</sup> and early parts of the 19<sup>th</sup> century. Under British rule it was divided into regions governed by other provincial administrations: Bengal (later, Bihar since 1912), Central Province and Madras Presidency. With the gradual expansion of British Rule, more and more areas came under the Raj and a number of land revenue assessment systems evolved as per the status of the individual payee<sup>4</sup>. As a result, different revenue systems and tenancy laws prevailed in different parts of the present-day state of Orissa. The two most common systems of revenue assessment prevalent then were – *Zamindari* and *Ryotwari*. The *Zamindari* system existed in districts like Cuttack, Puri, Balasore and Angul, whereas the *Ryotwari* system existed in one part of Sambalpur district<sup>5</sup>. In addition there were 24 princely states, which were controlled by the British through a subsidiary alliance, under which the princes had the freedom to decide their internal administration as long as they regularly paid tributes to the colonial authority.

The revenue and tenancy laws in the State varied. The Bengal revenue system was implemented in districts like Balasore, Cuttack and Puri (vide The Bengal Rent Act, 1859) and was replaced by The Bengal Tenancy Act, 1885 and then The Orissa Tenancy Act which was introduced in 1913. Many intermediary forms of tenure developed in the *Zamindari* areas along with the growth of sharecropping. The Madras revenue system was exercised in Koraput, Ganjam and parts of Phulboni districts as per the Madras Estate Land Act, 1908. The system applied for both the *Zamindari* and *Ryotwari* areas; in the latter, the rights of the landholders were governed by executive instructions, whereas in the former, landholders could freely sublet land to tenants who however, enjoyed no protection under the law. The Central Province revenue system (vide Central Province Land Revenue Act 1881/1917 and Tenancy Act, 1898/1920) was prevalent in Sambalpur and Nuapada districts. The princely states had separate land settlements and revenue regulations under the Government of India Act, 1935. There was no law to protect the interests of tenants. However, the Orissa States Order 1948 conferred occupancy rights on tenants (Behuria: 1997).

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<sup>4</sup> The systems had evolved according to the varying degree in which in different parts of the country, tribal occupation of territory had superseded the rights of the ruler, or full proprietary rights had been granted to the individual.

<sup>5</sup> Under the *Zamindari* system, land was held as an independent property and revenue was assessed on the individual or community that owned the estate. The *Zamindars* (rich landlords) organised their own revenue collection agencies and often involved more levels of intermediaries. Under *Ryotwari* (peasant proprietary) the land belonged to the British Crown and was held in a right of occupancy, both heritable and transferable, by individuals. The revenue was assessed on individuals who were the actual occupants of smaller holdings and this was collected by the village headman whose office was hereditary.

Land legislation in Independent India had the objective of reforming the exploitative and iniquitous system of land revenue assessment that had existed during the colonial regime and these legislations were motivated by the concern to provide 'land to the tiller'. To confer ownership rights on the tenants, the State realised the need for the abolition of intermediaries and the provision of security of tenure to tenants. Regulation of rent, de-concentration of land holding through the fixation of land ceilings were some measures used to push forward the reforms. Though land tenure reforms was a national mandate, land was classified under the State list in the Constitution and states were allowed to legislate on the land rights issues in order to address local requirements/peculiarities. During the last six decades, the State government has promulgated a number of progressive legislation to establish a legal framework for land reforms. Some of these are analysed in Table 1.

**Table 1: Main Provisions and Impact of Land Legislation in Orissa**

Name	Year	Provisions	Impact
Orissa Estate Abolition Act	1952	Abolition of intermediaries.  Vesting of all land rights in the state.  Agricultural land less than 33 acres to remain with the intermediary for personal cultivation.	No provision protection for tenants.  Eviction of tenants as the <i>zamindars</i> were allowed land, less than 33 acres, for personal cultivation.  Abolition of intermediaries could not be completed until 1974.
Orissa Land Reforms Act (Amended in 1965, 1973 and 1974)	1960	Permanent, heritable and transferable rights in land for the tiller.  Ban on leasing of land except under special conditions (in 1972).  Under adverse possession, land in continuous cultivation for 12 years or more by a person other than its owner shall pass to the cultivator.  Rent not to exceed one-fourth of the gross produce.	Delay in the enactment and actual implementation of the Act provided sufficient opportunities for large landowners to escape ceiling restrictions.  By explicitly banning tenancy, the law is unable to address the problem of share-cropping.  No provision was made to record concealed tenancies.

Name	Year	Provisions	Impact
		Ceiling on individual holdings at 33 standard acres-later reduce to 20 (in 1965), and to 10 standard acres (in 1972).	
Orissa Survey and Settlement Act	1958	Different laws relating to survey, record-of-rights and settlement amended and consolidated into one uniform law.	Establishment of uniform though defective systems-rights of tenants not recorded during settlement operations.
Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act	1972	Fragmentation of land declared illegal.  First choice of transfer to adjacent farmer.	Little impact on land fragmentation.  Occasional land sales but rarely to adjacent farmer.  Consolidation of landholdings ignored by farmers in western Orissa because of undulating terrain.
Orissa Prevention of Land Encroachment Act (Amended in 1982)	1972	Unauthorised occupation of government land prohibited.  Penalties on encroachers to be followed by eviction.  The 1982 amendment for settlement of two (later amended to one) standard acres of 'unobjectionable' land (i.e. government wasteland) with 'eligible' beneficiaries (e.g. landless).	Disregard of the Act with widespread encroachment on both government and common lands, often by powerful groups.  Penalties too low to act as a disincentive to encroachers.  The 1982 amendment not a 'proactive' right- encroacher cannot 'apply' to be regularised as act of encroachment is regarded as illegal in the first place. Only Revenue Inspector can initiate regularisation of rights.  Considerable scope for rent-seeking by revenue officials.

With a list of progressive legislation, Orissa, however, experienced limited success in reforming the land tenure and revenue assessment system, the two major contributing factors being weak revenue administration and lack of updated land records. Besides, the prevalence of different revenue systems and regulations exposed the limitations of the laws as the legislative response could not change deep rooted systems. Removal of intermediaries could not be completed in Orissa till 1974 as there were no reliable records available. Similarly, the high ceiling level, fixed at 33 standard acres, enabled eviction of tenants by the intermediaries. As a result, by the time the ceiling limit was reduced to 10 standard acres in 1972, most of the big landowners had already escaped the ceiling limit by transferring the surplus land to their kith and kin, while maintaining actual control.

## 2. Land Ownership – Status and Trends

*The chapter deals with issues concerning implementation of land reforms in Orissa. Land has been and is being given to the landless by the State Government under various schemes such as Bhoodan, Vasundhara Yojana and distribution of land pass book. This chapter tries to assess to what extent the allottees are in actual possession of the land so distributed. It discusses specific provisions related to transfer and restoration of land, especially those that provide protection to tribal and Scheduled Caste owned land.*

The ownership of land in tribal areas has remained a complex issue for decades in most parts of India. Tribals living in forest areas are yet to receive legal entitlement over land in many areas they have been cultivating for decades. They face the constant threat of eviction and dispossession<sup>6</sup>. Different categories of land and varied ownership, land use and management patterns make land resource management all the more complex. In tribal areas, concentration of land in a few hands, illegal possession of land by the elite, passing off irrigated land as unirrigated land in land records and use of agricultural land for commercial purposes are some of the stumbling blocks in the individual's rightful access to land.

Land distribution at the time of Independence was extremely skewed. Fifty three percent of the land was held by seven percent of the landowners, whereas 28 percent of landowners with submarginal and marginal holdings owned about 6 percent. The land distribution across the states was also quite skewed. Ceilings on landholdings were essential because of three economic compulsions: (1) there was strong evidence indicating an inverse size - productivity relationship, hinting that the aggregate production efficiency is hampered when land is held in large holdings; (2) there was some evidence that large holders of land left large areas fallow thereby perpetuating uneconomic land use; (3) a large proportion of the population were land-based poor who wanted land as an economic resource for their livelihood. Thus, central policy-makers felt that surplus land could be distributed to the poor. The general position in favour of land ceilings was based largely on providing social justice and equity and not on the grounds of increasing production and developing agriculture. Land ceiling was imposed to acquire surplus land from the big landlords and redistribute them among the landless.

### Implementation of Land Reforms in Orissa

The survey of the legislative framework of Orissa confirms that 'land reforms policies have been based on the principle of redistributive justice and on arguments regarding efficiency (land to the tiller, fixation of ceilings, prevention of fragmentation, etc.). Since Independence, nearly 3.01 million hectares has been declared as ceiling surplus in the country. Of this nearly 2.31 million hectares has been

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<sup>6</sup> It is expected that with the coming of the Forest Rights Act 2006, the situation will change.

taken over by the government and 1.76 million hectares distributed<sup>7</sup> among 5 million beneficiaries, half of whom are Scheduled Castes and Scheduled Tribes<sup>8</sup>. Besides, 7.26 lakh acres of government wasteland has been provided to the landless in the state. In addition, 5.80 lakh acres of *Bhoodan*<sup>9</sup> land has been distributed to the poor in Orissa. Despite all these efforts, access to land still remains a distant dream for the vast majority of the poor.

During the post land reforms period, not all intermediaries could be removed, because of lack of reliable records. The large-scale eviction of tenants also took place. No provision was made to record concealed tenancies. The Orissa Survey and Settlement Act could not, in some cases, record the rights of tenants during settlement operations. Large scale transfer of land to adjacent farmers could not stop the fragmentation of land. And due to uneven terrain, farmers in western and southern Orissa neglected the consolidation of their landholdings. Widespread encroachment on both government and common land could not be prevented because often encroachers were both rich and powerful.

The provision of settlement of government land to the landless is not at a “proactive” provision. Even “eligible” encroachers (normally referred to the landless) cannot “apply” to be regularised as an act of encroachment is considered illegal in the first place. Moreover, in matters of land settlement even the legal process provides ample scope for manipulation and corruption. Similarly, identification and vesting of ceiling surplus land also has many loopholes. Big landholders not only avoid ceiling in the name of distribution of land among family members<sup>10</sup>, in forced conditions they offer their waste or *banjar* lands as surplus land. Even the distribution of declared and vested ceiling surplus land among the landless has been very slow. The practice of transferring tribal land to non-tribals who use a tribal pseudonym is very common. In many cases, the tribals have themselves turned into bonded labourers or underpaid agrarian labourers on their own lands.

### Distribution of Ceiling Surplus and Government Wasteland

The Government of Orissa has for long realised that access to and control over land resources holds the key to poverty alleviation and land reforms is a prerequisite to development. Therefore, it has been one of the first states to implement land reforms by formulating progressive land laws. While in most states ceiling laws apply to both owned land and land taken on lease, the Government of Orissa realised, for the sake of social justice, that a large number of people who are sharecroppers should not be placed under the purview of the ceiling laws. Therefore, in Orissa, ceiling laws only apply to owned land and not to tenanted land.

Since 1974-75, in order to improve the economy of the weaker sections of society and to boost agricultural production in the State, ceiling surplus land up to 0.7 standard acres is being allotted

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<sup>7</sup> According to the annual report of the Ministry of Rural Development, March 2003, 157,482 acres of ceiling surplus land has been provided to 140,158 landless families in Orissa, of whom 51,644 are tribals and 48,196 belong to the schedule caste category.

<sup>8</sup> Source: Report of the Working Group on Land Relations for Formulation of 11th Five Year Plan, Planning Commission, Government of India, New Delhi, July 2006.

<sup>9</sup> Donated land

<sup>10</sup> Sometimes fake identities or even the names of pets are used for this purpose.

**Table 2: Land Ceiling Limits under Revised Laws (in hectares)**

State	Irrigation required for		Dryland
	Two crops	One crop	
Orissa	4.05	6.07	12.40-18.21

Source: [www.agricoop.nic.in](http://www.agricoop.nic.in).

free of *salami*<sup>11</sup> to landless persons for agricultural purposes. Out of this 70 percent is to be settled with the Scheduled Castes and Tribes and the remaining land settled with other categories of landless. Compared to the rest of India, Orissa has set a comparatively good record in distribution of ceiling surplus land to the landless. This process and system of land distribution has also been used as a source of inspiration, for national distribution of ceiling surplus land, by the Government of India.

Landlessness is more an efficiency issue than a resource issue: there is more land available for distribution than the number of landless. As per 2005-06 records, there are about 445,450 landless individuals in the State, whereas degraded ceiling surplus land available is about 540,725 acres. Similarly, there are about 249,334 Homestead-less families for whom land available is 122,764 acres. Besides, since 1974-75, government wasteland up to one standard acre is allotted to the landless for agricultural purposes.

**Table 3: Land Distribution Details (1974-March 2007)**

Allotment/ Distribution category	Total land allotted (acres)	Total number of beneficiaries	Scheduled Tribe		Scheduled Caste	
			No.	Area	No.	Area
Ceiling Surplus	1,59,384	1,42,616	52,934	66,303	48,794	51,109
Homestead land lease		12,13,655	4,62,536		3,32,706	
Wasteland	7,36,491	4,78,469	2,31,630	3,84,364	1,04,235	1,75,576

Source: Revenue Department, Government of Orissa, 2007.

During 2006-07 Government land to the extent of 4051.851 acres has been distributed among 4438 landless families. Out of this, land to the extent of 2063.922 acres has been given to 2096 Scheduled Tribe families, 1078.350 acres to 1145 Scheduled Caste families, and 909.579 acres to 1197 other landless families.

### Non-distribution of Ceiling Surplus Land

The reasons for non-distribution of land range from the area being locked in litigation, to it being reserved for public purposes to it being unfit for cultivation. This means that tribals still do not enjoy the benefits of land distribution. There are three basic problems that beneficiaries face in such ceiling

<sup>11</sup> Salami, a Persian term, is a form of tax paid to the Government by the allottee.



surplus and wasteland distribution cases: a) lack of actual physical possession by the beneficiary, b) no records (*patta* - ownership) with the beneficiary, and c) poor land quality making it almost impossible to cultivate. A large chunk of beneficiary families, who have *pattas* for ceiling surplus land allotted to them do not physically possess them as the land is still under the possession of the previous owners. The previous owners still reap the benefits from such land. Although about three decades have passed since allotment, efforts to ensure physical possession of the land to the allottees have been limited. Interestingly, even though most do not have physical possession, they have to pay tax as they are owners as per Government records.

### A Distant Dream

A study reveals that the much talked about re-distribution of ceiling surplus land has remained far from being impressive. Over the years, the poor and landless, especially the tribals, have not been able to benefit much from the ceiling surplus land that has been transferred to them under various schemes. As per the survey conducted in three blocks of Koraput, the landless are not an improved lot even after re-distribution of the ceiling surplus land. For, as much as 16 percent of the beneficiaries continue to struggle to get physical possession of the land allotted in their favor. Similarly, 30 percent of beneficiaries have record of rights for land which is not suitable for cultivation. While 42 percent beneficiaries are cultivating their land, 6.6 percent have either sold or mortgaged it. "This goes on to show that most beneficiaries are not deriving any actual benefit from the land they legally own," said the study. It is interesting to note that, though allotted during 1976-77 and paying the cess regularly, the beneficiaries are still not in possession of the allotted land. The previous owners use their money and muscle power to regain possession over the surplus land. Besides this, there are problems of land acquisition (4 percent) and sale and mortgage of land (7 percent).

Interestingly, those who are not even in physical possession of their land seem to be paying the 'khajana' (tax and commonly known as Sistu in Koraput) to the Government who are about 16 percent. The total number of households in these 12 villages is 1,850 of which 6.7 percent belonged to Scheduled Caste while 65 percent were Scheduled Tribes. While 90 percent of the families are below the poverty line, in three villages, not one household was above poverty line. The study found that out of the total land allotted to beneficiaries, 72.5 percent is ceiling surplus while the rest is government wasteland. In all, 646.46 acre ceiling surplus land was found to be allotted to 319 beneficiaries. While more than 70 percent has received ceiling surplus, the rest got government wasteland.

*Regional Centre for Development Cooperation –National Institute for Rural Development Study, 2006*

### **Limitations in the Allotted Land**

There are large numbers of families that have been allotted a piece of land but have not got *patta* implying lacunae in the implementation of land reforms for the last three decades. Sometimes, the beneficiaries are ignorant about official procedures and hesitate to discuss the matter with the concerned Revenue Inspector. While sometimes, their financial condition does not allow them to probe the matter in depth. In many villages, the land that has been allotted to the legitimate beneficiaries is either unproductive or uncultivable. Negligible or no effort has gone into developing the land to make it cultivable. In some villages, the land remains barren for years before cashew is planted on it.

Moreover, the allotted land is usually far away from the village and adjacent villagers claim rights over the reallocated land. Physical land demarcation is also a major issue and a majority of beneficiaries are unable to identify their plot. As a result, they cultivate land that does not belong to them and are called encroachers. There are many such examples, especially in districts like Gajapati, Kondhamal and undivided Koraput.

### **Assistance to Beneficiaries**

The beneficiaries/allottees of the land come from very poor rural landless labour families and so they do not have adequate financial or other resources to develop the land on their own. The Government of India had, therefore, introduced a Centrally Sponsored Scheme during 1975-76 to provide financial assistance as grant to each assignee family for undertaking development of land, purchase of necessary inputs and for meeting their immediate consumption needs. An initial amount of Rs. 500 per hectare per beneficiary was given and then subsequently raised to Rs. 1000 per hectare per beneficiary to be shared equally by the Central and the State governments. The rate of financial assistance was again raised to Rs. 2500 per hectare per beneficiary and from 1993-94, the scheme has been transferred to the State Sector after a decision of the National Development Council. According to the Rural Development Department, the States have reported a total utilisation of Rs. 49.08 crores (83.85 percent of the sanctioned amount of Rs. 59.72 crores).

### **Prevention of Transfer of and Restoration of Land**

As per section 22 of the Orissa Land Reforms Act, any transfer of land that belongs to Scheduled Castes and Scheduled Tribes to people who are not from this group without prior permission of the competent authority is declared void. Under Sections 23 and 23A of this Act, there is a provision for restoration of land to Scheduled Castes and Scheduled Tribes if it has been transferred without prior written permission of the competent authority or if the land has been under unauthorised occupation by those who are not Scheduled Castes or Scheduled Tribes. Though the law makes provisions for the protection of such allottees such cases are rarely reported when *suo moto* action is taken. The amount of illegal land transfer that takes place is more than that reflected in government records. Similarly the restoration of land, which means ensuring of actual possession, is carried out more as an official requirement by many officials rather than an actual implementation..Thus, actual possession of the land which is lawfully given to the people by the government cannot be acquired and it is difficult to expect the restoration of illegally transferred land.

The details regarding Scheduled Caste and Scheduled Tribe beneficiaries under the provisions of Sections 23 and 23 A of the Orissa Land Reforms Act during 2006-07 are provided in Table 4.

**Table 4: Transfer and Restoration of Land under the Orissa Land Reforms Act**

Social Category	Number of beneficiaries	Land ordered for restoration (in acres)
Scheduled Castes	1350	1389.923
Scheduled Tribes	229	57.251
Total	1579	1447.174

Source: Revenue Department, 2006-07

### Distribution of Land to the Homestead-less

Since 1974-75, as one of the frontline anti-poverty programmes of the State, the government has provided land of up to four decimals to the homestead-less for house-site purpose. A number of initiatives including the Chief Ministers' declarations from time to time for 'no homestead-less' have been taken to expedite the implementation of this important work. About 249,334 homestead-less families have been identified in the State, out of which more than 60 percent belong to the Scheduled Tribe and Scheduled Caste families.

As per Government records, from 1974-75 till the end of 2005-06, the State Government had distributed 49,248.117 acres of homestead land to 1,115,000 homeless families including 415,000 Scheduled Tribes and 307,000 Scheduled Caste families. In 2005-06, homeless families (72,585) have been provided with house sites up to 0.04 acre per applicant – this includes 34,944 Scheduled Tribes and 18,176 Scheduled Castes and 19,465 other poor homeless families.

In 2006, Project 'Vasundhara' was launched as a mission under which all the homestead-less families shall be provided house sites within a span of three years. Intense efforts are being made to expedite its implementation. Till date, 249,334 homestead-less families have been identified in the State. For 2006-2007, 98,774 homestead-less families, which include 46,196 Scheduled Tribes, 25,721 Scheduled Castes and 26,857 other families, have been provided house sites under the aforesaid project.

In July 2006 in the *Tahasildars* (officer in charge of the small revenue unit in the village) Conference, it was decided to derecognise the *kissam*<sup>12</sup> of *gochur* (grazing land – village commons) land and record it in favour of the families who have constructed houses on them. However, months before the conference, the State Government initiated a campaign to make the *gochur* land free of encroachment and a three member was constituted to prepare a blue print on the extent of land encroachment from the *gochur* and other government category.

<sup>12</sup> Classification.

### **Differences in the Coastal and the Tribal Hinterland**

There is an alarming trend (please refer to Annexure 1) between the landless and the availability of surplus land in the coastal and tribal hinterland. In the coastal districts of Cuttack, Jajpur, Jagatsinghpur, Kendrapada, Nayagarh, Puri, Khurda, Ganjam, Balasore and Bhadrakh, the number of landless is more than the land available for distribution. However, in the tribal dominated districts of Koraput, Raygada, Malkangiri, Nabarangpur, Sundergarh, Mayurbhanj, Keonjhar, Deogarh, Sambalpur, Kandhomal, Angul and Dhenkanal, the number of landless is less than the land available for distribution. In the 10 coastal districts, the per capita land availability for the landless is 0.9 acres whereas in the 12 tribal districts, the per capita land availability for the landless is just double, i.e. 1.8 acres. As per the State of Forest Report 2003, Forest Survey of India, in the undivided districts of Cuttack, Puri and Balasore, which normally forms the coast of Orissa, only about 10 percent of the total geographic area is recorded as forest area, while the rest are revenue areas. The forest area in the midland and the tribal hinterland of the State is between 42-45 percent of the total geographic area (Forest Survey of India: 2003). Therefore, the prosperous coastal area as against the less prosperous tribal area needs attention in a different direction especially in terms of access to land, and poverty.

Moreover, the total forest area of the coastal districts mentioned above is a mere 13 percent of the total forest area of the State. This implies that a major portion of these coastal districts is revenue area that comprises agricultural, *gochur*, cultivable/uncultivable waste land, where acquisition and conversion is legally permissible. Encroachment of these areas is an administrative offence and does warrant stringent punishment. This has led the powerful landowners to encroach land in the coastal districts.

A campaign called *Mo Jami Mo Diha* (My land -My homestead) to protect and to ensure land rights of the poor, who were allotted lease of Government lands earlier or restored their lost land. The objective is to achieve convergence with development schemes to see that the land allottees are in a better position to utilize the land; and to assist the poor, with emphasis on those belonging to Scheduled Tribe and Scheduled Caste communities, to retain their land and homestead within the existing legal framework. The campaign aims to verify, to its entirety, physical possession of ceiling surplus land, homestead land lease cases, wasteland distribution for agricultural purposes, and restored cases of Regulation 2 of 1956 and section 23 of the Orissa Land Reforms Act.

### **Distribution of *Bhoodan* Land among the Landless**

The *Bhoodan* movement was initiated by Acharya Vinoba Bhave in 1951 with the objective of bridging the gap between the landed peasantry and the landless by invoking a sense of altruism for redistribution of land for social justice. Since then land was received as donation from benevolent land owners and the same were distributed among the landless persons under the *Bhoodan* Act, 1953 and Rules 1954 which was later replaced by the *Bhoodan* Act, 1970 and Rules 1972.

Under the *Bhoodan* movement, land was distributed to the poor and landless by the first generation of land owners and so necessary records for such transfer of title were not created. As a result of this, in districts like Koraput, Nabarangpur and Malkangiri, the second generation land owners took back this land from the beneficiaries rendering the entire *Bhoodan* movement futile. Additionally, in the

## Mo Jami Mo Diha

With a view to restore land to the beneficiaries, the State Government launched a campaign named '**Mo jami Mo diha**' in 2007. As per the provisions of the campaign, all the claims as per records will be seen *suo moto* and the data from the case records will be verified on the ground. Parallel, data collected from the field through the campaign by means of application/grievance petitions etc. shall be crossed checked with the *Tahsil* (small revenue unit in the district) office files/ case records to decide follow up action. Complaints about common property government land and communal lands in forcible possession of the influential and rich in the village would be investigated and corrective measures taken. In the campaign approach, *melas*<sup>13</sup> were organized, in the first phase, in each *Tahsil* to collect applications/grievance petitions from the beneficiaries during the month of September-October 2007. In the months of January- February 2008, a second set of *melas* were proposed for the disposal of *suo moto* enquiry and distribution of possession certificates to the beneficiaries.

As part of the campaign, Regional Centre for Development Cooperation an NGO in Orissa facilitated the submission of applications of 33 beneficiaries from its study villages in Koraput *Tahsil* office during December 2007. After the submission of applications in the *Tahsil* office, the organization has been following up with the revenue officials on the verification status of the concerned beneficiaries. Subsequently the revenue officials stated that the verification report reveals no possession problem in the selected villages and there are cases only where a repeat demarcation of the area is required. Given this conclusion, the second set of *melas* was ruled out by the district revenue authorities.

In view of this response, the NGO interacted with 46 ceiling surplus beneficiaries, of the seven villages under study, who had attended the first phase of the *melas* in their respective areas. These interactions revealed that 27 beneficiaries had attended the *mela* and all of them had applied for possession, however, none of them had received possession over their land until the beginning of February 2008.

The organization's investigations have further revealed that there are lapses on both sides – the government and the beneficiaries. On the one hand, the beneficiaries felt that though they had submitted the applications in the *mela*, there was no provision for follow up. To add to their misery, the previous land owners in village Podapadar and Gaudaguda of Kakriguma circle threaten the applicants of dire consequences if they continue to ask for their rights. On the other hand, the beneficiaries are unaware of the implications of the campaign and even the decisions taken on legal cases filed on their behalf. The feeling of hopelessness on the part of the beneficiaries leads to the realisation that information dissemination needs to be stepped up for greater impact.

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<sup>13</sup> A village fete.

coastal districts of undivided Cuttack, Puri and Balasore, a large area of *Bhoodan* land has been illegally encroached by the rich and the influential (this includes builders). Presently, there has been no survey to assess the exact nature and volume of such illegal encroachment and no subsequent enforcement to bring back the land.

The *Bhoodan Yagna Samiti* has been reconstituted vide a Revenue Department Notification<sup>14</sup>. According to the report received from this *Samiti* an extent of 6,38,706.50 acres of land was collected as donation, out of which 5,79,994.21 acres of land have already been distributed amongst 1,52,852 landless persons. The *Samiti* is expediting the distribution of the balance 58,722.29 acres after verification of the present status of such undistributed land. Please refer to Annexure 2 for a status of the land distributed under *Bhoodan* in different districts of Orissa.

### **Distribution of Land Passbooks**

The State Government has started issuing Land Pass Books to all individual land holding families. This passbook will enable families to use it as an authoritative document for or as (i) Caste Certificates (ii) Socially and Economically Backward Classes Certificate for educational purposes (iii) Legal Heir Certificate for limited purposes (iv) Income Certificate (v) Residential Certificate (vi) Identification of Below Poverty Line families and (vii) Farmers Identity Card. Besides, details of each member of the family shall be recorded in the land passbook to obviate legal heir problems. Moreover, the land passbook has been made compulsory in obtaining an agricultural loan. Tribals will specially benefit from this programme as those who had encroached forestland prior to 1956 and who have won the right to residence in the Supreme Court will obtain land passbooks. However, work on distribution has been slow and only 14.8 percent of the target (3,916, 244 ) for 2007 has been achieved clearly indicating that there is a long way to go before one can see a substantial impact.

There have been a number of efforts by the Government to ensure that the landless actually get the land for which a number of progressive legislations, orders, schemes and programmes have been promulgated. But the biggest challenge that has come in the way of such empowerment initiatives is implementation. A major limitation is the lack of or very limited follow up. It is this reason why one comes across such issues as tribals paying tax for three decades without physically possessing the land officially distributed to them. There is a requirement for strict monitoring and the setting up of a responsible nodal agency to ensure physical possession to the landless.

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<sup>14</sup> No. 8647 dated 1.3.2004.

### 3. Land Rights for Tribals, Other Forest Dwellers and Women in Scheduled Areas

*The chapter discusses and analyses the pros and cons of the recently passed Forest Rights Act, 2006 as well as land rights of women across caste, class and religion. The chapter also engages the readers in a discussion on land rights in the scheduled areas focusing on land transfer provisions and issues concerning pre-80 settlement and conferment of land rights up to 30 degree slope.*

#### Forestland Rights to Tribals and Other Forest Dwellers

Forest rights is commonly perceived as rights of the local forest dwellers over the produce and the forestland and these rights have been a major area of concern in post independence India. From colonial times large tracts of land were recorded by the government as 'unclassified' forests<sup>15</sup>; however, their ownership was unclear, and since most of these forests were home to a large number of tribals, land alienation took place without the settlement of the issue of the tribals' rights over them. After independence, large tracts of land have been declared as Reserve Forests, which further means that no rights over this land ever existed or would exist. This led to the eviction of the local forest dwellers and they have been termed as encroachers in their own land.

The failure to clearly demarcate the extent of the forest has led to many disputes and claims. There are thousands of cases of local inhabitants claiming that they were in occupation of notified forestlands prior to the initiation of forest settlements under the Indian Forest Act. There are a number of cases of *pattas*/leases/grants said to be issued under proper authority but which have now become contentious issues between different government departments.

In June 2004, the Government of India made a significant admission in the Apex Court by holding that a 'historical injustice' had been done to the tribal forest dwellers of the country, which needed to be immediately addressed by recognizing their traditional rights over forests and forestland. This admission came just months after the eviction of about 168,000 families from over 150,000 hectares in a Government order in May 2002. This led the Government of India to introduce the Scheduled Tribes (Recognition of Forest Rights) Bill 2005 in the Parliament in December 2005, and this was finally as an Act in 2006 and is now widely known as The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Though the Act does not define forests, it defines forest land as land of any description falling within any forest area and includes most types of forests. The law provides for recognition and vesting of

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<sup>15</sup> Forests that are not classified either as a reserve or protected forest during the Estate Abolition in 1952.

forest rights to Scheduled Tribes in occupation of forest land prior to 13<sup>th</sup> December 2005 and to other traditional forest dwellers who have been in occupation of forest land, up to a maximum of four hectares, for at least three generations, i.e. 75 years., These rights are heritable but not alienable or transferable. Forest rights include among other things, the right to hold land and live on it under individual or common occupation for habitation, self-cultivation for livelihood and so on.

The Gram Sabha (*Palli Sabha*) is the competent authority to initiate the process of determining the nature and extent of forest rights of individuals or the community. The Gram Panchayat, by convening the Gram Sabha, shall form the Forest Rights Committee with not less than 10 and not exceeding 15 members with two-thirds of the members present and voting. In order that justice is done to the real beneficiaries of the marginalised communities, it is prescribed that the Forest Rights Committee will have one-third members from the Scheduled Tribes and not less than one-third of this will be women. In order to bring women onto the centre stage, it is further provided that where there are no Scheduled Tribes; at least one-third of all members shall be women.

### Unresolved Issues Critical to the Realisation of Forest Rights

- There is an apprehension among forest dwellers, who have been displaced several times because of various development projects, that they might not get the benefit of the Act as proving residence for three generations in the present village would prove difficult, if not impossible.
- Non-functional Gram Sabhas and the ignorance of *panchayat* functionaries about the law may make them pass a resolution in favour of those not deserving the benefits.
- Predominance of Government officers in both the appellate committees (sub-divisional level committee and district level committee) may dilute the authority and freedom of the tribal leaders, who may even go unheard.
- Difficulty in collecting caste certificate by the beneficiaries – nobody knows who is going to issue the caste certificate.
- Ensuring the presence of two-third of the members for the formation of the Forest Rights Committee is a tall order.
- There are any number of instances where the forest department is taking up in great haste plantation activities in the forest land earlier cultivated by the tribals and other forest dwellers so that people cannot prove occupation.
- Prospective beneficiaries want forest rights to be alienable and mortgageable but expect protection under the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956.
- It is a moot point whether this land can be acquired under the Land Acquisition Act.
- Recognition and vesting of rights in case of a man who has more than one wife.
- Processes to draw the traditional boundaries in the forest villages.
- No clear understanding on whether communities would have 'community forest resource' rights if it falls within the Critical Wildlife Habitat and in the mining areas.



The common misconception among tribals, other forest dwellers, policy makers and the public at large is that the Government will provide an additional four hectares of forestland to the tribals for cultivation. The conclusion is that anybody can acquire four hectares of land. Whereas the law lays down that an individual who claims forest rights has to produce sufficient proof to support his/her claim and the Forest Rights Committee will accordingly initiate the process of determination of rights. This claim will then be verified by the sub-divisional level committee and the district level committee and settled or rejected. The specification of four hectares of forest land does not necessarily mean that all claimants will be provided exactly with that amount. On the contrary, it translates into the fact that no claimant will get more than four hectares of land. Land thus provided to the claimant will be under the joint ownership of the husband and the wife and the land *patta* will be prepared accordingly. In the case of a widow claimant, land will be provided in her name with the desired *patta*.

## Women and Land Rights

Women's land rights have often been subsumed as those of her husband's. She is not counted as an owner in her own right and this makes her disproportionately vulnerable to losing her entitlement over land<sup>16</sup>. As per the 1988 prevention of *Benami*<sup>17</sup> transaction law, if there is land in the name of the wife or daughter, it would be assumed that the land belongs respectively to the husband or father.

Significant gender biases persisted both in land reform legislation and in personal laws. Most of the land reform legislation was enacted during the 1980s before women's land rights were considered worthy of policy attention (Agarwal 1994). No mention of women's land rights was made until the Sixth Five-Year Plan (1980-85). The Eighth Five Year Plan (1990-95) called for a change in inheritance laws to accommodate women's rights but gave few specifics and called upon state governments to allot 40 per cent of ceiling-surplus or state-redistributed land in the name of women alone, with the remainder to be joint titled.

Women and land rights is one of the most crucial issues of any society that is trying to bring in equity and justice. Access to land is a necessary condition for poverty alleviation, and so an adequate legal framework for land rights to women, is more than essential. In the context of a developing country, land rights are crucial as they are linked to issues like right to food, work and other human rights. It is now increasingly understood that the denial of inheritance of land rights especially in a patriarchal system has contributed to the subordinate status of women. Therefore, the Hindu Succession Act 1956<sup>18</sup> as well as several other legislation have been amended keeping in mind a gender-just approach.

As per different land laws, the State Government may distribute all such land under ceiling surplus that is not categorized as commons, *gochur* and *rakshita* and those which are not under the discretion of the WAKF<sup>19</sup> Board to a set of landless people. Among them, landless widows and unmarried women up to 30 years old are listed as beneficiaries who get high priority.

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<sup>16</sup> Source: All India Reporter (1986), Kunjalata Purohit v Tahasildar, Sambalpur and others, Orissa, 115.

<sup>17</sup> Land records under fictitious names.

<sup>18</sup> Amended in 2006.

<sup>19</sup> Government recognised custodian of religious properties of Muslims.

**Table 5: Land Rights for Women Disaggregated by Religion**

The Hindu Succession Act 1956	Land rights for Muslim women	Property rights for Christian women, 1925
a. Daughters have equal rights like the son has over paternal property including land.	a. The wife or widow is entitled to one-fourth of her husband's property, and one-eighth in case of a joint family.	a. The wife does not have any right over husband's property as long as her husband is alive.
b. Under Section 14, women have ownership over land. Women who have got ownership rights over land can transfer the land to the person of her choice.	b. The daughter is entitled half of her parental property if she has no brother, and half of what the brother gets in case she has a brother. The male heir gets double what the female heir gets.	b. A widow gets one-third of her husband's property.
c. Under Section 23 women have residential rights over their parental house. They cannot sell the land/ property but can claim their share in case of a sale.	c. A mother has rights over her son's property. In case, the son does not have a child, the mother gets one-third of her son's property, and in case he has a child, she gets one-sixth.	c. A daughter gets an equal share like the sons do from the parental property.
d. Under Section 24, a widow will naturally inherit their husband's property but not if she marries again.		

The past has revealed that even when the government made efforts for the distribution of degraded and ceiling surplus land to both the husband and wife in the case of landless persons, this either was not implemented or hurdles in implementation were not shared. As a result, the beneficiaries would be unaware of the system of joint *patta* as the application for land settlement came normally in the name of the husband. Therefore, a fresh circular in 1989 made the joint application both in the name of husband and wife mandatory failing which land *patta* would not be granted. In the case of a widow, the *patta* would be in her name.

In order to give preference to widows, unmarried women, victimized women and women living below the poverty line, in 2002, the Government of Orissa decided to allot at least 40 percent of the Government wasteland kept for agriculture and house site purpose, ceiling surplus land and *Bhoodan* land. The government also stressed that at least 40 percent of this land should be allotted to women belonging to the Scheduled Tribes and Scheduled Castes.

The recent Orissa Rehabilitation & Resettlement Policy, 2006 has some progressive features such as unmarried daughters/sisters more than 30 years of age should be treated as separate families.

Physically challenged persons, orphans who are minors, widows and women divorcees are also to be treated as separate families.

Though elaborate provisions have been made to ensure land rights to women in the practice this has not always been followed. There are significant gaps between women's land rights and their actual ownership and possession, and between the limited ownership rights and their effective control over land (Bina Agarwal: 1994). For instance, the Orissa Land Reforms Act, does not mention the order of devolution of tenancy land – whether it would be according to personal law or would follow a different order. This is not clear and therefore open to interpretation.

Women's legal rights in land conflict with deep-seated social norms and customs, and are rarely recognized socially to be legitimate. There are strong pressures, reinforced by social stigma, seclusion practices, and other sanctions, on women to forfeit their legal rights in favour of their brothers. Women tend to internalize the imposed social restrictions because they feel that they may find themselves dependent on their brothers for economic and social support in the event of widowhood or marital break up.

Women's lack of control over independent sources of income has implications not just for their own well-being, but also for their children's, since it is known that child nutritional status is more closely related to women's than men's income. To the extent that women's income is land-based, women's lack of access to and effective control over land may therefore threaten the well-being of many household members. This applies to women from all social strata. On efficiency grounds, women are often the sole or de facto heads of households and, on the assumption that greater tenure/ title security provides production incentives, granting them independent title to land is likely to lead to higher agricultural output. However, this is only applicable if existing gender biases in agricultural support services and factor markets are corrected. Indeed, recent experience with savings and loans groups in India suggests that women are frequently better credit risk managers than are men.

In the context of women's role in agriculture, it would be worthwhile to discuss land rights provision for women in the Orissa Land Reforms Act. The Act allows widows, divorcees, unmarried women to lease their land for cultivation, when leasing is otherwise prohibited. Although this seems progressive, it may have two underlying presumptions a) women should be protected from cultivation, therefore, they should be allowed to lease their lands, and b) only female heads of households should have control over land, while the normal married women's control over land is subsumed under 'family'. Due to lack of education and awareness, women invariably do not have record of rights. One of the biggest limitations in matters of women getting the actual land rights is the lack of strict enforcement of law and strict monitoring of such empowerment process. For instance, the law says that if a family has more land than the ceiling set by the government, the surplus land is recorded in the name of the wife/daughter to avoid ceiling restrictions. Largely it has been observed that people accumulate more than the ceiling and put it in the name of the women member of the family though de facto ownership lies with the male members.

Agricultural land subject to tenancy is exempt from the Hindu Succession Act, and is governed by state-level acts. In states such as Uttar Pradesh where tenancy is officially banned, this precludes

most arable land. In the case of land ceilings acts, additional land may be kept in the case of adult sons but not adult daughters. Also, in assessing 'family' holdings, holdings of both spouses are considered, but women's holdings are often arbitrarily declared as surplus land while men's holdings remain untouched (Agarwal 1995). Though, in most cases, the law is clear it is the social customs and practices that stand in the way of women obtaining land rights. Ensuring land rights for women is more a social mobilisation exercise rather than a legal reforms issue.

### Land Rights and Ownership in Scheduled Areas

Ever since independence various land reforms initiatives were taken to abolish intermediary interests so as to ensure direct relationship of *ryots (farmer)* with the state. The Orissa Estates Abolition Act 1952, the Orissa Tenant Reforms Act 1955, the Orissa Land Reforms Act 1960, Orissa Transfer of Immovable Property Regulation 2 of 1956 (amended in 2002) are some of the important steps taken to safe guard the interests of the landless poor. The Orissa Transfer of Immovable Property Regulation 2 of 1956 was further amended in 2002 and rules were made more stringent to check large scale alienation of tribal land in scheduled areas. The regulation prohibits transfer of immovable properties belonging to members of Scheduled Tribes in favour of persons not belonging to that category. This regulation provides for penal action in respect of illegal transfer as well as unauthorised transfer. In spite of all these provisions illegal transfer and sale of land is a regular feature in tribal areas. Many of these cases remain unreported.

An interesting aspect of the Regulation amended in 2002 is that 'a member of the Scheduled Tribe shall not transfer any land if the total extent of his land remaining after the transfer is reduced to less than two acres in case of irrigated land or five acres in case of irrigated land.' However, it is not clear this will be applicable if government is acquiring land for public purpose. All transfers from Scheduled Tribes to non-Scheduled Tribes between 4th October, 1956 and 4th September, 2002 should have been proved to be legal to the sub-collectors concerned by 4th September 2004. Non-conformance with this would lead to the transfer being treated as illegal and persons in fraudulent possession of tribal land to be liable to a fine of up to Rs. 5000/- and two years of rigorous imprisonment.

Section 5 (2) of the Fifth Schedule refers to land and its ownership as follows, (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 of 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. The Gram Sabha or the Panchayats are to be consulted before acquisition of land in the Scheduled

**Table 6: Progress Achieved under Regulation 2 of 1956 (till March, 2007)**

No of cases instituted	No of cases disposed	No of Scheduled Tribe beneficiaries	Extent of land ordered to be restored (in acres)	Extent of land actually restored (in acres)
1,06,547	1,05,578	65,660	57,162.21	56,519.95

Source: Revenue Department, Government of Orissa.

Areas for development projects and before resettling or rehabilitating persons affected by such projects. The actual planning and implementation of projects in the Scheduled Areas is to be coordinated at the State level<sup>20</sup>. Table 7 provides a status of the tribal land in scheduled areas.

**Table 7: Tribal Land Status in Scheduled Areas**

District	Total private landholdings (percentage of total area)	Approximate percentage of landless (less than one standard acre)	Percentage of total government land	Percentage of forest land
Gajapati	15.39	89.45	84.61	64.13
Kalahandi	37.13	66.30	64.10	30.34
Keonjhar	19.01	84.93	79.80	37.30
Kondhmal	14.47	88.55	85.53	74.64
Koraput	30.87	59.04	69.13	23.80
Malkangiri	17.88	63.44	82.12	54.21
Mayurbhanj	32.95	88.82	89.38	42.16
Nowrangpur	31.87	73.22	68.13	46.52
Rayagada	18.17	74.08	81.83	37.10
Sundergarh	21.87	70.43	78.13	51.04

Source: Revenue Department, Government of Orissa, Bhubaneswar, 2006-07

Recently, the State Government has proposed an amendment to the The Orissa Transfer of Immovable Property Regulation 2 of 1956 which would enable transfer of tribal *patta* land to non-tribals, though in specific cases. It is widely debated and argued that such amendment would completely defeat the purpose for which the regulation was promulgated. Government records reveal that in the tribal dominated districts of Orissa about 84 percent of the land belongs to the Government under forest and revenue land, and the rest, very small holdings, are private or *ryoti* land. Since in most parts of the scheduled areas tribals depend on forest and other revenue land for which they do not have *patta*, such deregulation might have serious implications on tribal land ownership in the scheduled areas.

<sup>20</sup> Both the Fifth Schedule and the Provisions of the Panchayats Extension Act, 1996, are important for the indigenous and tribal people pertaining to their rights in Scheduled Areas. The Fifth Schedule stresses both the governance and the rights of the tribal people to their land, whereas the Provisions of the Panchayats Extension Act, 1996 emphasise the assertion of the village community i.e. the Gram Sabha. The Fifth Schedule empowers the President and the Governors to take care of the governance of the respective State wherever indigenous/tribal people reside in good number across the country, whereas the Panchayats Extension Act empowers the Gram Sabhas to take their own decision pertaining to the developmental plans. The Fifth Schedule protects the rights of the indigenous and tribal people, whereas the Provisions of Panchayats Act promote the Gram Sabhas to act and assert the rights of the tribal and indigenous people with the "village community" as its unit. Members of the Tribes Advisory Council according to the Fifth Schedule have a duty to extend advice to the Governor on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State. Every Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayats at the village level shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.

In 2005, The Tribes Advisory Council decided to form a committee consisting of the Revenue Minister, the Minister of Scheduled Tribe and Scheduled Caste Development, along with respective Secretaries to study and examine the proposed amendments so that the interests of the general tribal community were safeguarded and the educated and progressive members of the tribal community did not suffer. Viewing both the pros and cons of the proposed amendments, the committee brought out a few recommendations:

- Grant permission to matriculate tribals for mortgage of tribal land for obtaining a loan from different Banks /Financial Institutions for some selective purposes such as, building of residential houses, higher studies of children, self employment, and business and for small-scale industries. There was no need to permit mortgage for purposes like meeting expenditures of marriages, and other rituals.
- In case of insolvency of the loanee, the Bank/Financial Institutions would be at the liberty to put the mortgaged land to public auction where any person, even a non-Scheduled Tribe, could participate.
- The limitation period of 30 years in case of adverse possession of a tribal land by non tribal should be lifted and the period of unauthorised occupation be calculated with effect from 04.10. 1956 in order to effect eviction.
- The Revenue and Disaster Management Department may explore the option of bringing in a mandatory concept of land to land rehabilitation, in case of acquisition of tribal land in Scheduled areas, along the lines of the provisions in irrigation projects as given in the Rehabilitation & Resettlement Policy, 2006.
- Regular evaluation studies need to be conducted by independent professionals, to obtain feedback on the implementation of Regulation 2 of 1956.
- The Orissa Land Reforms Act may also be amended accordingly to provide similar protection to tribal in non-scheduled areas,

The details regarding the number of persons belonging to Scheduled Castes and Scheduled Tribes who have benefited under Sections 23 and 23 A of the Orissa Land Reforms Act is given in Table 8.

### Regularisation of Pre-80 Settlement

By the early 70s, the realisation dawned that injustice had been done to tribals and other forest dwellers because in many previous settlements rights of such inhabitants on forest land were not inquired into and settled as per the law. The State Government attempted to make amends but could not achieve the ideal impact.

**Table 8: Beneficiaries under the Orissa Land Reforms Act (2006-07)**

Type of beneficiary	No. of beneficiaries	Area of land order for restoration (in acres)
Scheduled Castes	1350	1389.923
Scheduled Tribes	229	57.251

The Forest Conservation Act 1980 came into ban all proposed settlements in forest land. Subsequently in 1988, the National Forest Policy made a commitment to protect the rights of forest dwellers, including tribals on forest land. The Ministry of Environment and Forests issued six sets of "Guidelines" on 18 September 1990, dealing inter alia with: Regularisation of Encroachments; Review of Disputed Claims over Forest Land; Regularisation of Pattas & Leases; and Conversion of Forest Villages to Revenue Villages. These Guidelines were supposed to provide a framework to resolve the problem of settlement of rights of tribals and other forest dwellers on forest land. The objective was to launch two special drives; first to allot house sites to the homestead-less persons and the second to initiate processes and efforts for the conversion of 50 percent of Pre-1980 forest villages into revenue villages. State governments could apply to the Government of India for regularisation of "pre-1980 encroachments" and from 1990 to 2002 State/Union Territory governments sent proposals for over 3.66 lakh hectares of forest land.

However, in most cases these guidelines have not been implemented. Though Orissa has about 75,600 hectares of encroached forestland<sup>21</sup>, the proposal from Orissa for regularisation of pre-1980 eligible encroachment was only for 3,754 families from 17 districts for a total area of 3328.42 hectare of forest land.

### Conferment of Rights up to 30 Degrees Slope

As per the Forest Inquiry Committee Report of 1959, about 30,720 sq.km of forest area was under shifting cultivation in the forested and tribal dominated districts of Orissa which is about 20 percent of the total geographical area of the State. Current estimates reveal that an area ranging between 5298 sq. km. to 37,000 sq. km comes under shifting cultivation in Orissa. About 31,237.9 sq. km. of forests is affected, in varying degrees, by shifting cultivation<sup>22</sup>. Though shifting cultivation has been an important source of livelihoods for the tribals, the Government of Orissa is yet to recognize it as a legitimate land use and has declared all such cultivation areas, including forest land, as Government land<sup>23</sup>.

Tradition and compulsion are the two major reasons why tribals resort to shifting cultivation. As regards compulsion, where policy making is involved, lack of revenue land for settled cultivation has been a major reason. Besides, survey and settlement operations especially in the tribal areas fail to record the rights of the inhabitants making it easier to prove that tribals are encroachers in their own home land. Moreover, settlement of tribal rights over land in the hill slopes and their entitlement to common property resources as per guidelines provided by the State could not properly record existing rights. The plain table method only addressed land below 10° gradient, while all unsurveyed land above 10° was categorised as state owned uncultivable wasteland although much of this land was owned and cultivated by tribal households<sup>24</sup>. This recording is incorrect and has deprived a large

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<sup>21</sup> V K Bahuguna, Presentation on Problems of Encroachments on Forestlands, RUPFOR Series No. 3, presented at Van Vigyan Bhavan, New Delhi, November 15, 2002.

<sup>22</sup> Government of Orissa (1994), 'A Decade of Forestry in Orissa 1981-1990.' Principal Chief Conservator of Forests, Orissa, Bhubaneswar.

<sup>23</sup> During the Survey and Settlements, the shifting cultivation lands on hill slopes were categorized as government land, with no recognition of tribal rights over it, either individual or collective. Section 10 of the Indian Forest Act, 1927, also dismisses the rights of shifting cultivators during declaration of Reserve Forests, only providing that the forest settlement processes should keep aside some area for shifting cultivation (Kumar, 2004).

<sup>24</sup> Pradhan, Gadadhar and Sricharan Behera, Position Paper on Land rights issues in Orissa, 2007.

number of tribal households of rights over the land under their occupation in almost all the hilly tracts of the scheduled areas<sup>25</sup>. With a view to redress the grievance and problems of the tribals, in March 2000, the Government of Orissa decided to confer ownership rights to all persons in the scheduled areas cultivating land up to 30° hill slopes and to carry out a special survey of previously unsurveyed hill slopes in the scheduled areas. The Government orders also directed that the same status rule be extended to other tribal (Scheduled) areas of Orissa.

There are elaborate provisions for restoring and providing land rights in the Scheduled Areas. Efforts are strong and clear as regards abolition of intermediary interests, prohibition of land transfer, regularisation of encroachments and now recognition and vesting of forestland rights. However, the issues that have come to the fore regarding access and ownership over land vary widely from non-participatory settlement processes to social practices and customs.

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<sup>25</sup> Saxena, N.C, A Note on Policy Issues, 2004.



## 4. Land Acquisition, Transfer and Alienation

*The chapter starts with a discussion on development induced displacement till date and issues concerning compensation for such displacement. The chapter also deals with issues concerning fast growth of the mining and mineral based industrial sector and the associated displacements, establishment of Special Economic Zones, illegal land transfer, and encroachment of village commons. The chapter also dwells on various forms of land alienation caused due to forest conservation, commercial plantation and agriculture including contract farming.*

### Development Induced Displacement

The National Planning Commission estimates that some 50 million people have been displaced since 1950 on account of various development projects, of which more than 40 per cent are tribals. These projects include large irrigation dams, hydroelectric projects, open cast and underground coal mines, super thermal power plants and mineral-based industrial units. In the name of development, tribals are displaced from their traditional habitats and livelihoods with little or no rehabilitation<sup>26</sup>. These tribals are pushed into unemployment, debt bondage and hunger due to loss of access to traditional sources of livelihood viz., land, forests, rivers, pastures, cattle etc. This has led to conflicts between the local inhabitants, especially tribals, and the companies that push for development projects in tribal areas and the government machinery. Such incidents have taken place in Kalinga Nagar, Kashipur, Lanjigarh, and Paradip. Although land acquisition is the main reason for conflict, there are other reasons like inadequate rehabilitation and resettlement measures, and perceived state protection of the interests of the companies and industries<sup>27</sup>.

Although land transfer and the subsequent alienation of tribal land has been restricted by legislation as a matter of public policy, currently the Government has only achieved limited success in addressing the problems for which they were promulgated. Land alienation, especially in the scheduled areas, that is both institutional and non-institutional, involves a wide range of issues starting from land use change due to mining to change of ownership due to indebtedness. Institutional factors that cause displacement through transfer of *patta* land are visible, comprehensible and permanent, the non-institutional factors through transfers and mortgages at the individual levels are mostly invisible, short term and removed from public knowledge. This makes it difficult to assess and estimate the extent of its prevalence.

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<sup>26</sup> In 1994, an Indian Council for Social Science Research (ICSSR) supported study worked out the extent of displacement, and estimated that about 21.3 million people had been displaced between 1951 and 1990, to make way for mines, dams, industries, and wildlife sanctuaries. This did not include figures for urban displacement. Around 30 percent of those displaced in the 1950s and 1960s were estimated to have been resettled till 1980; and there was no noticeable improvement in the 1980s. A disproportionate percentage of the displaced were tribals and Dalits.

<sup>27</sup> Some 30,000 of the 1,50,000 construction workers of the Asiad facilities in 1982 were bonded labourers from Orissa and Chhattisgarh, brought to Delhi by labour contractors with the promise of a job in Baghdad. Once in Delhi, they were kept in concentration-camp-like conditions with no hope of ever returning home. They had been displaced by the Hirakud dam and other projects (Source: Displacement and Land Acquisition Act 1894, Walter Fernandes, New Delhi).

Even after displacement, there is no provision for compulsorily providing land for the affected populace. Though there is provision for compensation for assets it is not there for loss of livelihoods. For instance, if agricultural land is acquired, compensation for the land will go to only those who can produce documents proving their rights/claims over the land. Similarly, when forest land is acquired, compensation for green loss through afforestation and a premium for such forest land diversion under the net present value (NPV) are paid to the State by the project implementers. But no compensation is provided to those who were dependent on that forest. The Compensatory Afforestation Fund Management and Planning Authority's<sup>28</sup> funds in Orissa does not make any provision for those who were dependent on the forests. Instead, its funds are used for infrastructure building, especially forest and environment protection infrastructure.

### Conflict over the Status of the Land

During the Renagali displacement in the early 1980s, six families who were displaced from Keshabchandrapur village of Gogua block of the then Sambalpur district, were given land in the Khelei panchayat – 50 decimal each as *Gharabari* (Homestead land) in Khelei village and 6 acres each in the nearby Siarmalia and Jhirpani village for agriculture.

The families had been living in Khelei since 1983 and had got the provisional *patta* from the zonal office in the same year. They received the original *patta* in 1993 from Deogarh Tahsildar. The *pattas* specify homestead under *Ryoti* and agriculture land under *Godaeka* (barren land) *kissam*. The provisional *patta* mentions that 'the villagers will not have any right over trees other than fruit bearing ones, which would be auctioned by the Forest Department.'

However, when these six Rengali oustees went to their agricultural field to demarcate and start cultivation, they were stopped by the members of Siarmalia village who claimed that the area in question is a village forest area which they have been protecting for the last 30 years. Even the local forest officials corroborated that this land was a *jungle kissam* and could not be given for agricultural purpose as it attracts the Forest Conservation Act, 1980.

On the other hand, these six families carry land passbooks which corroborate that the agricultural land they have received is not a *jungle kissam*. This indicates that in the revenue records at the district level, the land in question is categorised as barren land and should not attract the Forest Conservation Act. To add to their woes, these six families have been paying tax since 1993 for the entire area.

Source: Regional Centre for Development Cooperation Study, 2008.

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<sup>28</sup> The Compensatory Afforestation Fund Management and Planning Authority was created by the Central Government in October 2002 for the purpose of management of money towards compensatory afforestation.

### Land Acquisition in Mining/Industrial Ventures

Being one of the richest mineral reserve states of the country, of late Orissa has attracted a huge investment from the private sector in the **mining and mineral based industrial sector**<sup>29</sup>. There are about three major mineral belts in the State covering an area of 6,000 sq.km and covering the major tribal dominated districts of Orissa. As per 1999-2000 records, the mining leases themselves are only seven percent of the total leases in India but the area under lease is around 16 percent of the total lease area of the country<sup>30</sup>. In Orissa, mining activities are concentrated in some of the districts with Keonjhar and Sundergarh accounting for about 50 percent of the area under lease in the state. There is also a very high concentration of primitive tribal groups in these districts with a major portion being classified as scheduled areas<sup>31</sup>. An overwhelming majority of mines in Orissa are open cast mines naturally effecting displacement and environmental pollution including land degradation. Table 9 mentions the area under acquisition and the number of families displaced in some mining and industrial ventures in the state.

**Table 9: Land Acquisition and Displacement in Some High Profile Mining/Industrial Ventures in Orissa**

Name	Area acquired (acres)	Families expected to be displaced	Affected villages	Remark
POSCO Steel Plant	4100	3700	11	POSCO would displace nearly 22,000 people from Dinkia, Nuagaon and Gadakujang Gram Panchayats.
Kalinga Nagar Complex	13,000	1150	-	The Government had acquired the land at Kalinga Nagar during 1990 and 1996 and paid compensation of Rs 35.14 crore for 6895 acres of private land at an average cost of Rs 51,000 per acre.
Mahanadi Coal Field Ltd, Talcher	13,610	-	77	
Arcelor-Mittal (Steel Plant)	8000	3000	-	15,000-17,000 people are expected to be displaced in Keonjhar district.

Source: Government of Orissa, Research Papers, and Newspapers.

<sup>29</sup> The total mineral reserve in the State is about 72050.74 million tons in 2005-06. Out of which coal alone comprises 86.05 percent followed by iron ore 7.45 percent, Bauxite 2.42 percent and Chromite 0.25 percent. The operational mineral leases in Orissa is about 60,000 hectares covering districts like Keonjhar, Sundergarh, Jajpur, Dhenkanal, Mayurbhanj, Jharsuguda and Sambalpur where there are about 335 working mines. The State has got about 99 percent chromite, 51 percent bauxite, 26 percent iron ore, 24 percent coal and 38 percent Graphite. (Source: Directorate of Geology, Bhubaneswar)

<sup>30</sup> Orissa Mining Corporation, Bhubaneswar.

<sup>31</sup> Dr. S.K. Singh, 'A Series on Self-Governance for Tribals: Tribal Lands and Indebtedness', National Institute of Rural Development, Ministry of Rural Development, Government of India, Hyderabad, 2005, vol 1, pp 226.

In addition to 'land for land', another promise for compensation is employment in the project. But this is rarely a ground reality for either side - of a total of 634 families displaced from the site of the Neelachal Ispat Nigam Ltd., 53 people were given work. There is no fixed criterion on how land is allocated to the industries. It is fixed by technical experts who have gone through the project proposals<sup>32</sup>. The view of the people who are to be displaced/ affected is not taken and therefore, there is resistance from tribal organizations and civil society organizations. There is an understanding among civil society organizations that more land is given to the industries than that actually required.

As per Panchayat Extension to Scheduled Areas Act, 1996 land acquisition power has been vested with the Gram Sabha or Panchayat, which mandates that there should be consultation before land acquisition for development projects and before resettling or rehabilitating persons affected by such projects. But in Orissa, the District Collectors and special land acquisition officers have been asked by the revenue department to submit proposals for the acquisition of land in scheduled areas along with copies of the resolution of concerned Gram Sabha/Panchayat. On one hand the relevant laws and procedures that could have made land acquisition stringent are being slowly diluted. On the other hand, the operations for land acquisition do not follow what has been agreed upon. For instance, the concerned company/industry has to submit a rehabilitation plan and design before the land acquisition process begins. Though the 'informed consent' of the Gram Sabha is mandatory for land acquisition, district officials usually consult the local elected representatives. Consultation with the Gram Sabha is more an aberration than practice. On the other hand there have been cases of the autocratic side of 'informed consent' with the *Sarpanch (head of village council)* taking his/her own decision on land acquisition<sup>33</sup>.

Recently, the Central Government has also directed the State Governments not to get involved as middlemen in the purchase of land and has further directed that this should be left to discretion of the industries and farmers. As per the Rehabilitation and Resettlement Policy of the State 2006, direct purchase of the land from the Scheduled Tribes is permissible. The avowed objective is to maintain a neutral stance as far as possible in matters of land acquisition. However, in this situation, when the State does not interfere it means a withdrawal of all protection mechanisms for the poor and the disadvantaged. This works in favour of the rich and influential and may further marginalise the poor.

The Honorable Supreme Court has also recognized the absolute authority of the State in land acquisition. The Apex Court in 2006 upheld the West Bengal's decision to acquire a piece of private land in Kolkata and asserted that the Government has the sole and absolute discretion in land acquisition for public purpose. It also said that 'public purpose' cannot and should not be precisely defined and its scope and ambit be limited as far as acquisition of land for public purpose is concerned.

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<sup>32</sup> Soumyajit Pattnaik, Resident Editor, The Hindustan Times, Bhubaneswar.

<sup>33</sup> In Jhardapalli panchayat, Bonai, Sundergarh district, the local Sarpanch called a Palli Sabha to discuss the Indira Awas Yojana, old age and widow pension, and accordingly a resolution was passed. Subsequently the villagers found out that the Sarpanch had provided a No Objection Certificate to a sponge iron factory without the knowledge of the Palli Sabha. The Sarpanch withdrew this after the villagers, local NGOs and forest protection committees protested.

### Mining May Threaten Rural Livelihoods

A very recent case of tribal resentment against mining activities has been reported in Deomali range in Koraput district where people of 60 villages fear displacement and loss of livelihood if bauxite mining starts there. The mining company has applied for mining lease of about 2,200 hectares in the Deomali range. Following the lease application, the revenue authorities were asked to conduct Palli Sabha to know how the locals would react to the mining proposal. Although there has been some headway in getting the mining lease, there has been no Palli Sabha convened to give consent or for the assessment of rights. The Punchmali range adjacent to Deomali has been given on lease for 80 years. If mining is allowed in Deomali it would displace about 3000 families some of whom have come from the Punchmali mining area. There are apprehensions that the mining activity in Deomali will destroy innumerable (more than 250) water sources further marginalising the already marginalised Scheduled Tribes and Castes.

*Source: The Times of India, Bhubaneswar, 16 April 2008*

**Special Economic Zones (SEZs)** are those areas within which the export-oriented industrialists and big business groups would be given land at a low price and various tax incentives. Since 1991 when economic liberalization in its true spirit started in India the first thing it did was provide a boost to foreign and Indian private investments. These private capital investments required acquisition of land that paved the way to use agricultural land for non-agricultural purposes. Until September 2006, the Board of Approvals Committee of the Ministry of Commerce had approved 267 Special Economic Zones (SEZ) projects all over India. Land area for each of these projects 'deemed foreign territories' ranges from 1000 to 14,000 hectares. For only 67 multi-product SEZs, as much as 134,000 hectares have been earmarked, mostly by state industrial development corporations.

Land has to be acquired with the consent of owners and the ceiling for all SEZs would be 5,000 hectares (12,500 acres). Moreover the minimum processing area for SEZs has been raised to 50 percent (from the earlier 35 percent). There is no denying that acquisition of agricultural land for purposes other than agriculture is a serious threat to the lives of the people in a predominantly agrarian society. Moreover, the recent Commerce Ministry letter to the States indicates that agricultural land may be acquired only if necessary to meet the minimum area requirement. The State Governments were asked to ensure that developers provide for adequate relief and rehabilitation package for the affected indicating that the States should also encourage involving affected families in the SEZ's activities<sup>34</sup>.

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<sup>34</sup> As per the Empowered Group of Ministers, Stress would be given on fallow or wetland acquisition instead of farmlands for takeover purposes; There would be ban on multi-crop land take over; Single crop land preferably should also not be taken; No State Government would ever acquire any land for industry/SEZ building; and A final rehabilitation policy package would be chalked out and put in place before making any move to acquire land in rural areas for industrialization purposes.

## Tribal Policy Makes Land Acquisition Difficult

Setting up industrial units, including SEZs, may become more difficult in areas inhabited by the tribal population in the days to come. The new tribal policy is all set to provide land ownership rights to the tribal population. This would not only make their eviction process stringent but also increase the liability for the acquirer to resettle and rehabilitate the tribal families. The move would impact mining, paper and metal-based industries. It would become difficult for a company to acquire tribal land. If the state government is convinced about the public purpose of the project, the company would be granted approval after every step has been taken to safeguard the interests, traditions and customs of the people in the tribal belt.

As per the proposals in the draft policy, land acquisition in tribal areas would have to be guided by the principle of land for land, market value of land, concept of net present value (NPV) of assets and social impact assessment. Besides, the land acquirer would have to ensure lifelong livelihood of the entire tribal community of the area in terms of providing job in the industrial units or imparting training to them for their employability. Land rights would mean that tribes would also be eligible for rehabilitation and resettlement grants. They just cannot be resettled by the state without any compensation. While the compensation scheme under the tribal policy is similar to the one contained in the recently-announced rehabilitation and resettlement policy, it goes beyond it to make acquirers liable to apply all the provisions for resettlement rather than give them the choice for any one of them.

The policy makes it mandatory to conduct a social impact assessment in case of displacement of more than 200 people. A legislative regime would be put in place that ensures least displacement of the tribal population, exploration of all alternatives to displacement and appropriate compensation including land for land, market value of land, concept of net present value of their assets and social impact assessment.

When the SEZs acquire single crop land, the worst hit would be the marginal and small farmers with fragmented holding as well as limited irrigation infrastructure for the second crop. This affects sharecroppers and agricultural labourers who do not get any compensation as they do not have title to the land. Two notified SEZs in Orissa will come up in the coastal districts of Bhadrakh, Jajpur, Jagatsinghpur where at the moment the number of landless is more than the land available for distribution. With the setting up of SEZs in these districts, the number of land less will increase further and since the barren and cultivable wasteland will be acquired by the SEZs, the available land for distribution will again go down. This will imply further marginalization and change of profession especially for the marginal farmers, sharecroppers and landless labourers.

Furthermore, the SEZ policy of Orissa, 2007 has made land acquisition and development easier relaxing a number of legal compliances. The policy has made several exemptions for developers so that operations relating to extraction of raw materials and its value addition becomes smoother and faster. Some of the crucial exemptions are; stamp duty for transfer of Government land or acquired

private land from Government to the Industrial Development Corporation, all transfers of land for development exempted from payment of stamp duty and registration charges. This is, besides, the tax and duty exemptions<sup>35</sup>.

There are two crucial issues that need attention with reference to the alienation of the small and marginal landholders. If on one hand, the Apex Court in the Haryana SEZ case in 2007 has held that farm land can not be acquired for SEZs, in states like Orissa the relevant land legislations (explained elsewhere) have been amended to convert agricultural land into non-agricultural purpose with prior notice and a premium. The Apex Court conditions will not be applicable, once such conversion process is over. Secondly, with regard to the compensation on land acquisition, evicted people due to SEZ will not get land against land or relative compensation. They will get suitable employment. But, the company authorities may not provide any job or terminate him/her from the job without assigning any cause. Again, in exchange of employment, the person may get monetary assistance at a time. For creating provision for compensation, the affected families are divided in to five types; a) persons losing homestead land and crop land, b) persons losing two-third of crop land including the homestead land, c) persons losing one-third of crop land including the homestead land, d) persons losing only crop land, and e) persons losing only homestead land. Common property resources and the people dependent on it for the sake of livelihood are not subjected to evaluation in case of land acquisition. Natural properties and the people are excluded from availing benefits and nothing is mentioned in the policy regarding this<sup>36</sup>.

The implications of going in for massive land use change may push us to importing food on a regular basis. Therefore, land use, food security and nutritional balance are some of the issues that the future India is going to encounter and seriously deal with. The race among the states for getting industrialized and exploiting available mineral resources has led to a situation where large tracts of arable land are either getting plastered or made unfit for cultivation. The environmental implications are massive but what has been significant and dangerous is that the agricultural fields that used to produce food would now be diverted for other uses. It is estimated that the land taken for SEZ produced food for about 2.4 lakh people. Therefore, hundreds of such SEZs will threaten the food security of 2.4 crore people, two percent of the country's population, even though they may be provided employment by the SEZs. The current food grain availability is about 200 kg per person, as against the world average of 310 kg per person. In order that the people have normal food, the food grain requirement would shoot up to 310 million tones as against the current production levels of 200 million tonnes. Addressing this need is definitely a Herculean task, especially when the net sown area is on the decrease.

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<sup>35</sup> The Developers of SEZs, industrial units and other establishments within the SEZs including infrastructure meant for the SEZs will be exempted from all State and local taxes and levies, including Sales Tax, Contracts Tax, Purchase Tax, VAT, Entry Tax, Entertainment Tax, Luxury Tax, Octroi, Cess, etc. in respect of all transactions made between the Developer. State Entry Tax Act would be amended to allow exemption of entry tax in respect of goods purchased by the SEZ Units.

<sup>36</sup> In most States an average of 6 percent of the landmass has been acquired (1951-1995), or more than 15 million hectares all over India. A quarter of this land was forest, and around 20 percent were other common property resources, whose dependants are paid no compensation. For example, NALCO built two units in Orissa in the mid-1980s, one of them in the tribal majority Koraput district, and the other in the high-caste dominated Angul. 58 percent of all land acquired in the former was common property resource, against only 18 percent in the latter. For the little private land they owned, the displaced persons of Koraput received a compensation of Rs. 2,700 per acre, while those of Angul received Rs. 25,000 per acre (Source: Displacement and Land Acquisition Act 1894, Walter Fernandes, New Delhi)



**Mortgage and sale of patta land** is the most common form of land alienation, especially in the Scheduled Areas. The normal procedure is mortgage and sale without any valid document causing alienation of *patta* land. Driven by poverty and indebtedness, people have no choice but to sell or mortgage the land they have received from the government. These poor families get a very meager amount in exchange for their land. Such mortgage takes place both within and outside the tribal community. Since tribals cannot legally sell their land to non-tribals, periodic lease for coffee, cotton, lemon grass plantation/cultivation is encouraged for a paltry sum. Viegas's study in four districts of Orissa found that Scheduled Tribes had lost almost 56 percent of their private land, out of which 40 percent was lost through debts and mortgages and the rest 16 percent through personal sales<sup>37</sup>.

The sale and purchase of agricultural land among cultivators constitute normal land market transactions. A study undertaken by National Institute for Rural Development (NIRD) in 16 villages in four districts of Bihar and Orissa reveals two compelling reasons for marginal and small farmers to sell their lands; emergency family needs and uneconomic holdings. The small and marginal farmers have limited and restricted access to credit, technical inputs and information, and innovative farming practices, thus often making farming non-viable. The study also revealed that there were high rates on tenancy ranging from 18 percent in Bihar to 27 percent in Orissa. The lease market operates through tenancy<sup>38</sup>. Fifteen percent of the rural households in India lease land and at 22 percent of the households, which is the highest in the country, in Orissa lease land<sup>39</sup>.

### Illegal Land Transfer Still Rampant in Scheduled Areas: A Case from Gajapati District

Krushna Sabara son of Sri Podugu Sabara had reclaimed four acres of fallow land in Kulunda mauza in Gajapati about twenty years back. Krushna and his son Sania Sabara worked day in and day out to make the land arable. Krushna took a loan of Rs. 25,000 from Land Development bank Parlakhemundi against that piece of land and utilized the money to dig a well in that patch of land. But he could not repay the loan in time and in 1977, he mortgaged his land to Sri Laxmi Kanta Gauda of his village for Rs. 4500. Sri Laxmi Kanta Gauda was a rich man of the village and played the role of a money lender in the area. A verbal agreement was done between the two parties to either repay the loan or vacate the piece of land. This time also Krushna Sabara could not repay his loan and lost possession over his land. Laxmikanta Gauda developed the land and cultivated it for five long years. However, after 5 years during the course of an enquiry made by the then Welfare Inspector of the area, this case was reported to him by Sri Sania sabara son of Krushna Sabara.

Based on his report the Welfare Inspector prepared a case against Sri Laxmikanta Gauda and handed over the report the Block Development Officer. In 1981 the case was sent to the Sri

<sup>37</sup> P. Viegas, *Encroached and Enslaved: Alienation of Tribal Lands and its Dynamics*, New Delhi, Indian Social Institute, 1991.

<sup>38</sup> Source: Report of the Working Group on Land Relations for Formulation of 11th Five Year Plan, Planning Commission, GoI, New Delhi, July 2006.

<sup>39</sup> Ibid



B.N. Padhi, Special Officer for further enquiry. Later the Special Officer, Parlakhemundi summoned both the parties to appear in the court and furnish all details of land as evidence which they were unable to do. Finally on 11.04.83 the court of Special Officer ordered Sri Laxmikanta Gauda to deposit Rs. 1500 as penalty for alienating tribal land and was told to vacate the land at the earliest. But Laxmikanta Gauda appealed in the court of Additional District Magistrate, Chhatrapur, and obtained a stay order against the previous order. The case continued in ADM's court and in the verdict he was allowed to take possession over his land. But Laxmikanta Gauda did not abide by the verdict of the court and remained in cultivating possession status. Further he appealed in the honorable High Court of Orissa which also ruled in favor of Sania sabara. But Laxmikanta Gauda remained in cultivating possession.

Disappointed Sania Sabara reported the same to the then Tehsildar Sri Purna Chandra Mohapatra. In 1989 Sania was given possession after taking police protection. Sania remained in cultivating possession till 1991. In that year a few Naxal leaders camped in the neighboring area to ascertain the welfare of the villagers. During a meeting Laxilanta Gauda could convince the naxal leaders to have a share in that patch of land. After negotiation Laxmikanta Gauda was given 1 acre of Sania's land to cultivate. Laxmikanta Gauda remained in cultivating possession till 1999 until he sold the land to some body else for Rs 38,000.

Land mortgage/ Sale in Gajapati

**System 1:** A piece of land is mortgaged for some amount of money where the borrower pays 2-3 percent interest over the principal amount for a period of 3 years. If the principal amount remains unpaid a fresh set of document is prepared where the interest rate is doubled.

**System 2:** A piece of land is mortgaged for some amount of money where no interest is paid up to a period of 3 years. If remained unpaid the land automatically gets transferred to the moneylender.

*Source: RCDC Study in Gajapati, 2007-08.*

### Access to and Encroachment on Village Commons

One way in which the rural poor and other socially excluded groups compensate for their lack of access to and control over privately owned arable land is through access to common and public land. While common property resources are not a major focus of the present study, it is important to be aware of their changing significance and the consequences for the rural poor, for several reasons: (i) commons are particularly important in the livelihoods of the rural poor and other socially excluded groups, including women and tribal populations; (ii) they complement private land and other asset holdings; (iii) threats to the extent and quality of the common property resources harms the poor and socially excluded relatively more than they do to better-off and more powerful groups; (iv) of these threats, various forms of institutional changes in recent decades have undermined the local

capacity to manage these resources through customary arrangements without replacing them with effective alternative arrangements (state, private, or civil society). In such an environment of institutional uncertainty, non-poor groups with a stronger ability to influence rural institutions in their own favour have managed to encroach on commons with impunity, while the landless, who may be legally entitled to acquire occupancy rights over a plot of cultivable 'wasteland', may be unable to realize their legal claim in practice.

In rural India, some of the most important village commons include community forests, pasture or 'wasteland', river banks, river beds, ponds and tanks and even forest department land. In total, commons may account for around 20 percent of India's total land area. This resource provides a wide range of physical products (e.g. food, fuel, fodder), income and employment benefits (e.g. supplementary crops or livestock, drought period sustenance, off-season activities), and broader social and ecological benefits (e.g., groundwater recharge, drainage, renewable resources, maintenance of a favourable micro-climate).

However, there has been a depletion of village commons that has been brought about by various processes operating in parallel. The failure of land ceiling laws to bring about any significant redistribution of privately owned ceiling-surplus land in practice has led many states to resort to redistribution of some public land ('wastelands') to landless households. Such *de jure* privatisation of commons has not always led to *de facto* control over land by the landless. In Orissa, for example, the very act of pressing a claim to such land is regarded as illegal, so that the establishment of rights is practically impossible to 'regularize' (Mearns and Sinha 1998). In many cases the land that has been redistributed is of low quality and generates low and uncertain crop yields. Many poor beneficiaries also do not have access to the complementary resources (labor, capital, draft animals) required to make more productive use of such land.

Further, the encroachment on commons has long been of concern and persists in spite of legislation designed to prevent it. Given the weak bargaining power of tribal communities, the most promising policy options to mitigate this should include raising of public awareness and access to information.

### Forest Conservation Effected Alienation and Eviction

Since colonial times, the tribals or the original inhabitants have been asked to justify and prove their existence on their own land. The forest has been synonymous with commerce and indigenous people have been viewed as trespassers and encroachers. Development policies directed at forest conservation led to the exploitation of national resources and the marginalization of tribals and other forest dwellers. This exploitation has been difficult to remove over the years even though there have been many legislations put in place.

During the consolidation of forests in the 1950s and with the coming up of the Forest Conservation Act of 1980, a large area was recorded as forests without settling local rights<sup>40</sup>. Many of these forests

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<sup>40</sup> In June and July 2004, ten tribal children (aged 2 to 5) died of "malnutrition" in Dongiriguda, a tribal forest settlement of Nawrangpur district in Orissa. According to the Forest Department, the settlement is a "post 1980 encroachment" because of which it was almost impossible for the district administration to even install a tube well for drinking water on the grounds that the Forest Conservation Act does not permit it.

did not even physically exist and revenue lands supporting livelihoods were sealed off as forests. Moreover, the unclear demarcation of forest and revenue lands, the Supreme Court's definition of a forest were other crucial issues that went a long way in denying rights to the tribals and forest dwellers. In May 2002, the Ministry of Environment and Forests issued a circular for the immediate eviction of all 'encroachers'. However, there is respite from the Common Minimum Programme of the present government that clearly states that "eviction of tribal communities and other forest-dwelling communities from forest areas will be discontinued". This is an important commitment as during the last few years, there has been a devastating wave of forced evictions of tribal communities from forest land around the country.

### **Protected Areas**

The Forest Conservation Act has brought once again to the fore the age old debate 'whether tigers or tribals'. One of the most contentious issues influencing the realization of forest rights within a protected area has been the declaration and demarcation of the 'critical wildlife habitat' (CWLH), a crucial aspect of the Forest Rights Act.

As per the provisions of the Act, under section 4 of chapter 3, 'the forest rights recognized under the Act in critical wildlife habitats of national parks and sanctuaries may subsequently be modified and resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purpose of creating inviolate areas for wildlife conservation'. This first of all implies that the provision of forest land is recognized, therefore, possible even within a critical wildlife habitat unless the government and the experts feel that such rights might come in the way of making the area an inviolate area for wildlife conservation. As per the Act, 'relocation is possible only when it is established that co-existence is not possible and if the local communities give their informed consent'.

This has kept the conservationists and wildlife activists working to keep the provisions of the Act outside the national parks and sanctuaries as they fear that the law would damage forest and wildlife. The Ministry of Environment and Forests suggested that people's rights in the national parks and sanctuaries should not be vested until 8 percent of the forest land – covering the 600 plus national parks and sanctuaries – was declared as critical wildlife habitat. Therefore, the Act in its true spirit will only be implemented after all the protected areas have formally demarcated and declared the critical wildlife habitat.

The Act provided that the Ministry of Environment and Forests would come out with a guideline for declaration of the critical wildlife habitat within six months of the promulgation of the law. But before these guidelines came out, the State Forest Department was active in preparing action plans for prospective relocation from the protected areas. Such initiatives took place in almost all states of India.

The critical wildlife habitat guidelines do not create ample scope for the participation of the Gram Sabha in the demarcation process thus leaving open scope for a biased judgment. At the State level Expert Committee, the government reserves the right to decide on the participation of the sociologist or that of the member of a Gram Sabha. The people's knowledge and information has been an important information source during wildlife/tiger census and should be given importance in this process too.

Moreover, though nowhere mentioned in the Act, it is assumed that the relocation of villages would start immediately after the forest department prepares the proposal to identify the critical tiger habitat<sup>41</sup>. In states like Kerala, Maharashtra, Karnataka and Uttar Pradesh, such critical tiger habitat demarcation proposals have been prepared and an estimate of people likely to be relocated has also been prepared. Now as per the Act, critical tiger habitat has to be understood as a process and not just a plan. The proposal has to be submitted to the Central Government and then the demarcation process will start with the involvement of the expert committee and the Tribal Welfare Ministry. As per the Act, while preparing the proposal, the forest department should only mention the area and not the number of people likely to be relocated as the committee might even decide that no relocation is necessary.

The Act under section 4 (4) in chapter 3 clearly mentions that no forest dwelling scheduled tribes (FDST) or traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete. Contrary to this, decisions on evictions are taking place much before the final notification of the critical wildlife habitat.

### Land Alienation due to Plantation and Afforestation

The focus on climate change is a welcome initiative for the macro-climatic scenario but not so much for the realization of local forest rights. On one hand, the State Government has started using bilateral donor funding for plantation in forestlands; on the other, the private sector, armed with a new definition of forest, is planning large scale plantation activities under 'public private partnership'. In the process, a sizeable portion of the revenue land would now be transferred for such plantation activities, especially from the cultivable wasteland category. If a major chunk of the revenue land is leased out to corporates for plantation projects then there will definitely be serious repercussions on the process of land distribution to the landless under different government schemes.

With large scale industrialization, the Government also has to find land, especially of the non-forest category, for the industries to take up Compensatory Afforestation<sup>42</sup>, where locals will have no access rights. Besides, in matters of land being given to the industries for compensatory afforestation, no rights assessment is done before such land is transferred. There are instances in Keonjhar district in Orissa, India, where shifting cultivation areas have been given for compensatory afforestation<sup>43</sup>. Similarly, compensatory afforestation also takes away revenue lands that were used for agriculture and grazing. It is also being decided to use about 9.54 million hectares of wastelands in Orissa, which remain either underutilised or unutilised, for compensatory afforestation. It is expected that such

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<sup>41</sup> Equivalent to CWLH under the Wildlife Protection Act 1972 (amended in 2002).

<sup>42</sup> The local forest dwellers have neither any say in matters of forest diversion nor the compensation that is received under Net Present Value for such diversion of forestland either for non forest purposes or in its utilization. The irony is that the local communities protect the forest while some others use it and receive the compensation. As per the Ministry of Environment and Forests order of April 2004, money received towards NPV shall be used for natural regeneration, forest management, protection, infrastructure development, wildlife protection and management, etc. There is no mention of creating or compensating livelihoods for the local communities which the forest diversion has deprived them of. The fund distribution mechanism is based on the erroneous assumption that the losses due to forest diversion are more national than local.

<sup>43</sup> Compensatory afforestation is one of the most important conditions stipulated by the Central Government while approving proposals for dereservation or diversion of forestland for non-forest uses. The objective behind this is to compensate the loss of forest area due to its diversion so that the net area under forest cover remains the same. Compensatory afforestation is insisted over equivalent area of non-forest land. Where non-forest land is not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried over degraded forest twice in extent to the area being diverted or to the difference between forestland being diverted and available non-forest land, as the case may be.

afforestation of wasteland will affect distribution of wasteland to the landless, especially in the coastal districts.

Plantation and afforestation, therefore, in the protected forests and revenue/non-forest areas is affecting both the forest dependent communities and the landless. On one hand, their livelihood options are closed within the protected forests; on the other, they have no entitlement over cultivable wastelands either.

The implementation of the Forest Rights Act has oppositions mostly from the forest bureaucracy. There are a number of instances where the Forest Department has started undertaking plantation activities in the forestlands presently under occupation of the forest dwelling Scheduled Tribes and other forest dwellers. As per the provisions of the Act, tribals and other forest dwellers would be given forestland up to four hectare. In Apadabhata and Nuamalpada village, Nangalbord panchayat, Sinapalli range of Khariar forest division in Orissa about 95 families have been cultivating a patch of 150 acres of village forest area. Earlier these families were booked under forest encroachment cases by the forest department. Fierce opposition, however, from the villagers forced the Divisional Forest Officer to intervene and assure the villagers that no such plantation by the forest department would take place till the forest rights determination process is complete.

### **Tribal Land Alienation due to Cashew Plantation**

In Orissa, cashew plantation has been raised by Soil Conservation Department on 120,000 hectares of so-called "Government Wastelands" in Schedule V areas that the tribals had been cultivating for many years even without the record of rights. During settlement, many tribals could not get their possessions recorded, due to their lack of awareness, and thus the land under their possession was recorded as government wasteland and in some cases was transferred to the Forest Department. Therefore, as per subsequent laws, the tribals became encroachers in their own ancestral lands. The Soil Conservation Department with a view to check soil erosion in big dams like Machhkund, Kolab, Chittrakonda and Indrabati, undertook massive cashew plantation under different schemes. In order to bring the tribals to do watch and ward, the department went into an agreement which promised distribution of cashew plantation areas among the landless, marginal and small farmers.

When the Cashew Development Corporation took over the onus of cashew plantation in April 1979, it could not run profitably and so started leasing out the production and marketing of cashew crops to private parties, invariably non-tribals. During the 1980s, there was a mushrooming of such cashew plantations in degraded non-forest lands where invariably rights of the local community existed or which were shifting cultivation areas in districts like Ganjam, Gajapati, Raygada, Kondhamal and Malkangiri. Thus lands that were once with tribals were now with private corporations, with the tribals getting no compensation or rehabilitation. Many of them shifted to the hill slopes and this resulted in more soil erosion. It is ironical that these plantations that deprived the tribals of their possession were funded by a scheme called, Economic Rehabilitation of the Rural Poor (ERRP)<sup>44</sup>.

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<sup>44</sup> 5 N.C. Saxena, Policies for Tribal Development: Analysis and Suggestions, 2004.

**Table 10: List of Violations of Tribal Rights**

PESA	Orissa Government Land Settlement Manual, 1983	OSATIP Regulation, 1956
Traditional rights over land was not recognized in the Schedule V area – No resolution at the <i>palli sabha</i> /gram sabha was made.	The Soil Conservation Department had obtained permission from the Revenue Department for cashew plantation - Orissa Cashew Development Corporation did not have land lease permission to go in either for tender or putting the revenue land for long term lease.	In 2005, the revenue department gave tree <i>patta</i> to 1500 families of 37 villages in 7 panchayats but the <i>patta</i> land of Similiput village was auctioned to another party in the year 2006 by Corporation.  In 2007, Orissa Cashew Development Corporation gave tender of the Godiput cashew land, where <i>patta</i> was already given to 32 families.

Source: SPREAD, Koraput

### Conflicts Unlimited

There is a growing dispute around a cashew plantation in Kamda village of Tentulikhunti block in Nabarangpur district leading to the formation of two groups. The cashew plantation that spreads over 160 acres of government land in the village was started in 1985/86 under the ERRP programme of the Soil Conservation Department., Government of Orissa. Out of 160 acres of land, 50 acres has already been distributed amongst the poor families in the village. The dispute exists over the remaining 110 acres of land.

The government land on which the cashew plantation exists was long cultivated by a few people in the village. People of the village had lodged complaints and allegation against the people who have forcefully acquired government land for cultivation. However there has been no action from the government and the group continued to cultivate this land. As per government rules, this land needs to be rightfully distributed amongst the poorest of poor for agricultural purposes. However, due to the problems and disputes the land could not be distributed. All the 110 acre of cashew plantation is now handed over to the panchayat for protection and safekeeping. The panchayat has accordingly identified 105 families who rightfully deserve to be the beneficiary of the land out of which 29 acres has been given to tribals, 50 belong to Scheduled castes and 26 belong to other categories.

But it is claimed by the villagers that the families identified by the panchayat are incorrect. It is also alleged that due to the involvement of vested interests non-tribals have been listed as tribals. On receipt of allegations, the block officials intervened to settle issues but the cultivators claimed that 'land *patta*' be issued in their names.

## Commercial Agriculture and Associated Land Alienation

A dangerous fallout of economic globalization commencing in the mid 90s, is its impact on agriculture and allied fields in almost all states in the country. High input orientation and increased private investment and promotion of commercial farming were some of the basic features of the neo-liberal influences on agriculture. Since providing food security to a large and growing population of about 1000 million continues to be the central objective of India's agricultural policy, there has been, therefore, a focus on accelerating growth in food grains production for meeting the rising food demand. Higher agricultural growth requires both public and private investment in irrigation and other rural infrastructure. Orissa, in keeping with such national aspirations, came out with an Agricultural Policy in 1996 that recognised the crucial role of agriculture in the State's economy and gave it the status of an industry. Though the major thrust of the policy still remained on the production of food grains and oilseeds, it mentioned the involvement of private enterprise/players in marketing of agricultural products creating space for the entry of the contract farming institutions.

There are two common forms of commercial agriculture prevalent in Orissa. One, where land is taken away from the farmers against a premium for a specific period of time; second, in which farmers are asked to cultivate their own land as per the terms and conditions fixed by the sponsor of the inputs. The second category can be further divided into two sub-groups where, the input provider could be an individual or an agency. In all these processes, the land that is put to commercial farming is small and the farmers more often than not lose control over their land and the mode of production in the process. Some examples of the two types of farming and the repercussions on the small and marginal holdings are discussed.

### Land Lease in the Tribal Area for Cash Crop Cultivation

Land lease system for cash crop began a decade ago in the interior pockets of Koraput district. Land lease started for the first time in 1994 and land was taken by the local businessmen and businessmen from Andhra Pradesh from the tribals for growing tobacco and in some areas cotton. Much before 1994, tobacco was grown by the tribals for their own consumption but during 1993-94, the price of tobacco suddenly increased and local businessmen wanted to buy all the produce from the tribals. During 1994, the local traders supplied fertilizer and pesticide to the tribals on the condition that the profit would be shared equally and the produce must be given to the person from whom the cultivator brings the fertilizer. In 1994-95, the per acre grade-I price was Rs 8000 and grade II price was Rs 5000. The system continued, though sometimes the local businessman did not pay in time or forced the barter system.

Though a price is mutually agreed upon due to unequal bargaining power, it invariably varies in favour of the local traders. Another area of concern has been the progressive decline in productivity. Once the field is free from cotton cultivation; the land lies barren and is hardly left suitable for cultivation due to the previously heavy use of chemicals. This has also led to the stoppage of cattle grazing in these fields. As per the medical report in Bandhugaon block, 712 cow, 32 buffalo, 808 goats and 12 human beings have died due to this cultivation<sup>45</sup>.

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<sup>45</sup> Survey undertaken in 2008 by Regional Centre for Development Cooperation, in Koraput district.



**Lemon grass** cultivation entered Bandhugaon block in 2003. Farmers from AP came here in search of new fertile land for growing a new emerging cash crop like lemon grass. The climate, soil and the availability of cheap labour are some of the factors conducive for growing lemon grass in this area. Presently its price per is Rs 430/kg in the local market. In 2006-07, nearly 1200 acre of land was used for cultivation; this land belongs to both tribal and non tribal communities. This figure has increased to 1800 acre by end of 2007. Nearly 25 boiler plants have been established close to the block headquarters and produces lemon oil, where round the year about 200 labourers are engaged in the plant<sup>46</sup>.

Land leasing, for lemon grass cultivation, starts in summer with a price varying from Rs 1000 to Rs 3000 per acre per year. The normal period of lease is 3 years with just a verbal agreement; the plain land price is Rs 2000 per acre in the first year, Rs 2500 in the second year and Rs 3000 in the third year. Those lands which are not suitable for cultivation are also leased out with Rs 1500 per year and those who take the lease develop the land for particular crop. Some basic problems faced are:

- Production of the traditional food produces like millets, pulses, and suan have decreased.
- Production of Caster oil that is used for food and medicinal purpose has decreased.
- Loss of land fertility causing increased dependence on *Podu*.

### Contract Farming

The main features of the contract farming arrangement are that selected crops are grown by the farmers under a buy back agreement with an agency engaged in trading or processing of such produces. The agreement between the producers and the sponsors provides access to production services, credit, sale and purchase agricultural produces from the farmers as well as knowledge of the new technology. The State government has amended the Agricultural Produce Marketing Act, 1956 to create private markets as well as scope for contract farming. The contract farming is viewed to overcome some of the problems faced by the small and marginal farmers as regards farm inputs, access to market, assured procurement, etc. But major disadvantages for the farmers have cropped up from several angles like information about the company, transparency in transactions including access to market information, guaranteed purchase, etc. An example of contract farming that could not continue beyond 2-3 years is discussed to understand the issues faced by the farmers.

<sup>46</sup> Dasini and Raghumeda of Bandhugaon Panchayat in Koraput district are predominantly tribal villages, where majority of the villagers are belong to Kondh tribe.

#### Details of Cultivation (in acres) in the Two Villages (2007-08)

Villages	Paddy	Millets and pulses	Podu	Tobacco	Lemon Grass
Dasini	15	33	42	17	38
Raghumeda	12	19	60	11	120

In Dasini, as per the forest department, per family average for Podu (shifting cultivation) is 3 acre. In Raghumeda, lemon grass is cultivated in 120 acres out of which 60 acres are patta land and 60 acres are forest land. A major portion of these two villages for the last decade has been experiencing cash crop cultivation mostly on land lease basis to outside businessmen.



After the liberalization initiatives in agricultural law enabling entry of contract farming institutions, cotton cultivation, especially in the seven districts of Bolangir, Rayagada, Kalahandi, Nuapada, Ganjam, Gajapati and Koraput seems to have taken off. It is currently estimated to be touching 9.5 lakh quintals from the present 6 lakh quintals. In seven districts about 60,000 acres where currently cotton cultivation is going on has been designated for contract farming. As per the Agriculture Department of Orissa, about 58,255 farmers have entered contract farming in these seven districts. The Department has disbursed about Rs. 11 crore as loan to 10,000 farmers. As per norms, procurement will be held only at the Regulated Marketing Committees and only registered buyers can participate<sup>47</sup>.

ITC in 2003-04, became the first contract farming agency to sell organic turmeric and other products procured from Daringbadi block of Kondhamal district. Till the end of the last season, i.e., 2004, 300 farmers had become partners with ITC and were growing chilli, turmeric, tomato, coriander and other vegetables for ITC in 175 acres in the year 2004-05. These farmers have entered into an agreement with the company, which lays down the terms and conditions of the arrangement. The company, as per the contract, has provided certified seeds, pest and disease control mechanisms, and bio manures to the farmers at subsidized rates. A rough calculation established that the rate of subsidy given by ITC is around 50 percent. The farmers do not need to pay the company for the inputs immediately after the contract comes into effect. However, the price of the produce is fixed along with the contract terms. After the harvest, the company buys back the produce and deducts the price of the materials provided to the farmer. The crucial aspects of the terms of trade are;

1. First party (farmer) will sell the produce to only the second party (ITC) at fair price.
2. The loan amount incurred by the first party will be deducted from the sale value of the produce.
3. There will be no interest charged on the loans.
4. The first party will take utmost care of the crop.
5. If the crop fails, there will be a 5 percent interest charged on the loan.
6. In case of crop failure due to natural calamities, there can be a mutual solution and settlement.
7. The second party does not guarantee purchase of all the items in any amount.

Though there is no trace of ITC doing contract farming at the moment in Daringbadi block, these conditions need to be viewed with objectivity and care must be taken to ensure that at no stage is there an unfair advantage for either party concerned – the farmer or the contract farming agency. It is also preferable that government in the form of a third party play the role of a regulator. One crucial issue concerning natural resource governance is the absolute anonymity of the people and institutions around about any such type of farming going on.

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<sup>47</sup> Two big cotton trading houses operating in the Kalahandi district; namely, Satya Cottons and Delite Cottons in 2004 entered into agreements with the farmers for procurement of a specified amount of cotton on a pre-decided rate. But when it was time to procure the cotton from the farmers, the two traders asked the district administration for a downward revision of the pre-determined price saying it was above the prevailing marketing rate. Subsequently, they did lift the cotton and store it in the Regulated Marketing Committee godown but did not pay the farmers waiting for the downward revision as asked for. The procured cotton was lying in the RMCs till March 2005. It was the farmer who lost out in the whole process with neither the RMC nor the district administration coming to their rescue.

### Land Leased for Bio-Fuel Plantation

In Patnagarh block of Bolangir district, about 10-15 Agro-based companies from Delhi and Agra had acquired about 600 acres of land from the poor farmers to plant Jatropha, for bio-fuel production. The said land was leased for Rs. 7000 per acre for three years. The Companies in the meantime also got the land registered at Rs. 70,000 per acre. The villagers were promised employment as labourers on the land, where they would draw around Rs. 2000 as monthly salary. Besides, the villagers were also promised that they would own their own enterprise. However, it was later learnt that the corporate was manipulating the entire process with no regard for the rights of any other individual. Let alone Jatropha, bio-fuel or joint ownership, the companies also robbed the villagers of their mahua trees (*Madhuca latifolia*), which is an alternate source of livelihood for the tribals. The company was even planning to lease out mahua flowers to the villagers for Rs. 500 per tree. The Revenue Divisional Commissioner, however, intervened and the company was prevented from exploiting the farmers.

### Corn Cultivation and Associated Land Alienation

Nabarangpur district bordering Chhattisgarh is one of the largest producers of Maize (Corn) in India. A large chunk of the area under corn cultivation are forest lands, mostly slope lands, with Umerkote, Jharigam, Raighar, Dabugam and Kasagumuda being major corn growing blocks in the district. Every year, forest land is cleaned for Corn cultivation - non-governmental sources reveal that in 2005-06, the total area under corn cultivation was approximately 1,85,000 acres, which increased to 2,25,000 acres in 2006-07. The investment in 1 acre varies between Rs. 3500-4000 and within 6 months the yield is about 15 quintal per acre, which is sold at Rs. 500-600 per quintal. The profit from this cultivation varies between 100-125 percent<sup>48</sup>. There could be two possible reasons for the high demand of Corn, a) growth of poultry food, b) production of ethanol to be used as bio-diesel<sup>49</sup>.

Kondhs, a tribe group, displaced from the Indravati Hydel Power Project from Kalahandi district have been mostly engaged in corn production since the late 80s. This group was relocated in the above mentioned blocks without any land compensation. Land that was given to them was either inaccessible or unfit for settled agriculture and this forced them to clear forest land for cultivation. Clearance of a forest patch for cultivation, especially for corn, lasts for about three years - the first year yield is 15 quintals, it reduces to about 12 quintals in the second year and by third year, the yield goes down to 8-10 quintals. Then another next patch is taken up for cultivation.

There are three issues that are directly related to land alienation and food security in the Corn belt in Nabarangpur. Due to heavy returns from Corn, more and more area is now going into Corn fold. As a result, Corn is intruding into the traditionally grown highland cereals (black gram, horse gram) and minor millets (*Arhar, Janha, Suan*) area, which has been the staple diet of the local tribals for ages. This has resulted in the unavailability of these cereals and millets for local use and a stiff rise in their

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<sup>48</sup> Source: Study undertaken by RCDC, a local NGO in Nabarangpur, 2005-06.

<sup>49</sup> As per an FAO report, the consumption of cereals in India has gone up by 2.17 percent between 2006-07 and 2007-08. But in the same period, consumption in the US has been much more than in India, which grew by 11.81 percent. A large part of this hike was caused by the country's new found appetite for bio-fuel made from corn.

price. This is one of the major reasons for food scarcity and nutritional imbalance in the tribal areas of Orissa. The sulphate based fertilizer that is used in Corn cultivation is also responsible for the gradual loss of soil fertility.

Most importantly, Corn cultivation operates in two different ways as both tribals and non-tribals are involved in this cultivation. The two different types of cultivation are; tribals cultivating their own land, and leasing the land to non-tribals. With the start of the season, the tribals take loan from the local money lenders at a monthly interest of 5 percent per season, i.e., if the tribal takes Rs. 100 as loan then he/she returns Rs. 150 at the end of the season. The most prevalent and dominant form of cultivation is the tribal land being leased out to non-tribals, prominent among them are business men from Berhampur, the Bengali settlers in Nabarangpur, and interestingly the local people including school teachers and local government officials. The land is leased for a very paltry sum of Rs. 200 per acre per season. A rough calculation shows that more than 50 percent of the area presently under Corn cultivation is done by the non-tribals.

The trend is clear and easily understandable. Land in any case is going out of the hands of the small and marginal farming populace for mining and industrial growth, cash and agro-energy production, etc. The rural farming and forest dependent populace is being slowly pushed to penury with the restriction on land rights in the conservation areas and the strong move for land acquisition for development projects. Whatever was left is now at threat from the land and farming merchants.

## 5. Changing Nature of Landholding Status among Weaker Sections

### Landholding Status among the Weaker Sections

A significant but alarming trend that is visibly upsetting the nation is the reduction in the percentage of scheduled caste cultivators from 68.18 percent as per 1961 Census to 54.50 percent in the 1991 Census and an increase of agricultural labourers from 19.71 percent to 32.69 percent. This clearly indicates the alienation of tribal lands for various purposes like construction of dams, mining projects, setting up of forest based and other industries, notification of wildlife sanctuaries, construction of government infrastructure and encroachments by non tribals. The official figures for land alienation in the Planning Commission report of January 2000 point out that the area alienated from tribals in all the states is 9,17,590 acres and those displaced between 1951- 90 are 21.2 lakh persons.

As per 2000 revenue records, 73 percent of the tribals come under the below poverty line category. Similarly, 55 percent of the schedule castes and 33 percent of the general category of people fall under the below poverty line category. However, in the southern districts of undivided Koraput and Ganjam, 87 percent of the tribals are below poverty line.

Surveys reveal that in districts like Gajapati and Kondhamal, tribals have land up to 10 percent of the total land, where the average landholding size is 1.12 standard acres<sup>50</sup>. Please refer to Annexure 4 for details on the net sown area in different districts. In the tribal districts, on one hand, the net sown area is less - almost half of that of the coastal districts, on the other hand due to poor revenue land settlement actual possession of revenue land is usually not a reality.

The figures in table 11 indicate that all coastal districts have about 40 percent of the agricultural labourers. Though there is hardly any conclusive survey, the high incidence of landlessness in coastal districts and the high percentage of agri-labourers have a definite correlation. Due to industries and SEZs, the coastal area is losing whatever little forest cover it had previously got. Besides, it is the coastal districts, where the rate of conversion of agricultural land into non-agricultural purpose is high increasing the number of marginal holdings, agri-labourers and the landless. Therefore, it is more likely that an agri-labourer in the coast is landless than in the tribal and forested areas. Moreover, the above figures establish that irrespective of whether it is revenue or forestland, tribals or non-tribals, the land holding status with the small and marginal farmers is showing a downward trend. Though the net sown area in the tribal districts is much less than that in the coastal plain, the plight of coastal farmers is not very far from that of their tribal counterparts.

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<sup>50</sup> Kumar, Kundan, et al, A Socio-Economic and Legal Study of Scheduled Tribes' Land in Orissa, 2005.

**Table 11: State Profile of Cultivators and Agri-Labourers**

District	Cultivators	Agri-Labourers	District	Cultivators	Agri-Labourers
Balasore	185433	122304	Koraput	148578	79975
Bhadrak	129463	68238	Malkangiri	107507	19610
Bolangir	142730	78449	Nawarangpur	65134	29363
Sonepur	64286	42032	Rayagada	95383	76428
Cuttack	131976	104244	Mayurbhanj	230742	165423
Jagatsinghpur	80272	46382	Phulbani	75686	39424
Jajpur	102134	81907	Boudh	52451	24048
Kendrapada	129062	60866	Puri	143560	73574
Dhenkanal	77450	67009	Khurda	68357	50966
Angul	100506	46222	Nayagarh	72588	49468
Ganjam	261069	171651	Sambalpur	72775	57547
Gajapati	76595	55101	Bargarh	159094	106090
Kalahandi	152795	126538	Deogarh	31516	16930
Nuapada	127204	74551	Jharsuguda	32568	18562
Keonjhar	161200	80459	Sundargarh	157056	64797
			<b>Total</b>	<b>3435170</b>	<b>2098158</b>

Source: A Profile on Agriculture in Orissa, 2006, Directorate of Agriculture & Food Production, Orissa.

As per a study undertaken by Census Directorate, Home Department and Council for Youth and Social Development, an NGO, reveals that there is a constant decrease in the number of farmers for the last three decades. Similarly there has been a decrease in the percentage of the agricultural labourers during the same period.

**Table 12: The Percentage of Farmers and Agri-Labourers (1981-2001)**

Year	Percentage of farmers	Percentage of agri-labourers
1981	40.4	23.9
1991	38.7	25.1
2001	36.4	22.04

Compared to the 1981 figures, farmers have registered a four percent decrease whereas the agri-labourers have registered a five percent increase in 1991. If we compare the figures with the figures and analysis provided by the profile of cultivators and agri-labourers, one can infer that the small and marginal farmers who constantly lost their land most likely turned into agri-labourers as a result of which there is a growth in the agri-labourer percentage in 1991. Similarly, there is further decrease in the percentage of farmers as well as agri-labourers in 2001. The reason for decrease in the agri-labourers number could be the opening of avenues in the urban sector due to economic liberalization that came with the 90s. A large number of farm labourers took up odd jobs in the cities and this contributed to a large extent to urban poverty.

### Distribution of Operational Holding

The total number of holdings for Scheduled Caste and Scheduled Tribes in the State was estimated as 5.69 lakh and 12.30 lakh respectively, which showed an increase of 4 percent and 4.2 percent over 1995-96. The increase in the number of holdings may be attributed to the division of families as well as cultivation of lands by other castes by Scheduled Caste and Scheduled Tribe families. Similarly, the average size of holding in the State has decreased from 1.3 hectares in 1995-96 to 1.25 hectares in 2000-01, because of the decrease in operated area and the increase in number of holdings. The average size of holding in case of marginal, small, semi-medium, medium and large groups was 0.50 hectares, 1.39 hectares, 2.69 hectares, 5.3 hectare and 16.48 hectare respectively. However, the Scheduled Castes and Scheduled Tribes have an average operated area of 0.90 hectares and 1.33 hectares respectively<sup>51</sup>.

**Table 13: Distribution of Operational Holding among Scheduled Tribes and Castes**

	Scheduled Caste				Scheduled Tribe			
	Number	percent	Area	percent	Number	percent	Area	percent
	1981	1991	1981	1991	1981	1991	1981	1991
<b>Orissa</b>	12.17	13.70	7.86	8.60	27.58	26.60	29.90	28.70
<b>India</b>	11.31	12.50	7.03	7.10	7.71	8.10	10.20	10.80

Source: Agricultural Census 1995-96.

The distribution of operational holdings among Scheduled Tribes and Castes together occupies 37.3 percent of the land which is higher than the all India figures. If there is a marginal increase in operational holding and area for the Scheduled Castes, it is on the decrease for the Scheduled Tribes.

**Table 14: Distribution of Land Holding among Weaker Sections (in hectares)**

Size class	Scheduled Caste				Scheduled Tribe			
	1980	1985	1990	2000	1980	1985	1990	2000
<b>Marginal</b>	384300	450700	514449	632874	200600	335000	388675	392213
<b>Small</b>	263100	265500	294910	368569	90000	92800	102770	124191
<b>Semi-Medium</b>	188900	181600	179901	169533	42000	45000	41791	42221
<b>Medium</b>	74500	61900	55642	46766	11300	9300	7515	8088
<b>Large</b>	7100	5200	3662	3177	1100	900	419	319
<b>All size</b>	<b>917900</b>	<b>964900</b>	<b>1048564</b>	<b>1220919</b>	<b>345000</b>	<b>483000</b>	<b>541170</b>	<b>567031</b>

Source: Agricultural Census: 1981, 1985 & 1990/ Agricultural Census Commissioner, Board of Revenue, Cuttack, Orissa.

<sup>51</sup> Bulletin on Operational Holdings: Agricultural Census 2000-01, Agricultural Census Commissioner, Board of Revenue, Orissa.

**Table 15: Decadal Change in Landholding among Scheduled Tribes and Scheduled Castes (1980-2000)**

Type of holding	Scheduled Tribe		Scheduled Caste	
	Increase (percent)	Decrease (percent)	Increase (percent)	Decrease (percent)
Marginal	64	–	95.55	–
Small	40	–	38	–
Semi-medium	–	10.25	–	0.6
Medium	–	37.22	–	28.42
Large	–	55.25	–	71

Source: Analysis of Table 12, Report on Agricultural Census: 1981, 1985 & 1990/ Agricultural Census Commissioner, Board of Revenue, Cuttack, Orissa.

As is evident from the above tables, compared to the tribes, the increase in the number of small and marginal holdings within the scheduled castes is fairly high – so is the extent of land fragmentation. The reasons for this trend could be; legal protection for tribal land alienation and the predominance of caste population in the coastal districts where land fragmentation is being caused due to increasing conversion of agricultural land for non-agricultural purposes. Besides, the tables also show that there is a sizeable decrease in the percentage of large and medium holdings both within the Scheduled Tribes and Scheduled Castes implying the degree of fragmentation.

Within the category of marginal holdings, there is almost equal percentage of decrease in the number of holdings which are wholly leased by both the Scheduled Castes and Scheduled Tribes. In partial leasing, there is an increase of about 25 percent within the Scheduled Tribe community and a marginal 5 percent increase for the Scheduled Castes. Within small holdings, there is conspicuous leasing of land within the Scheduled Caste community. But within the semi-medium category, partial leasing has substantially increased both within the Scheduled Tribes and Scheduled Castes.

The above table indicates that small and marginal holders within the Schedule Caste and Scheduled Tribe communities are fast losing their land either through outright sale or through leasing. One of the reasons for the increase in the percentage of partial leasing within the tribals could be the growth of informal commercial farming from Gajapati to Nabarangpur district – a huge tribal area that encompasses issues like Naxalism, landlessness, forestland cultivation, high input oriented commercial farming, hunger and malnutrition<sup>52</sup>.

In the Kalahandi Bolangir Koraput area, there was a sharp increase in the number of landless labourers and small and marginal farmers. From 1971 to 1991, the number of marginal farmers with landholdings of less than one acre increased from approximately 17 to 39 per cent of the total agricultural workforce whereas the number of large farmers (owning more than 10 acres) declined from 4.7 to 0.9 per cent.

<sup>52</sup> Going by conservative official statistics, between 2001 and 2006 in the four states of Andhra Pradesh, Karnataka, Kerala, and Maharashtra more than 9000 farmers committed suicide. Look also at another index of rage. According to the estimate of the Ministry of Home Affairs, some 120 to 160 out of a total of 607 districts are 'Naxal infested'. Supported by a disgruntled and dispossessed peasantry, the movement has spread to nearly one fourth of Indian territory.

However, the starkest trend is the decrease in the importance of middle peasant (with 4 to 10 acres of land) from 30.4 to 9.9 per cent in the same period. Since the number of small peasants (owning 1 to 4 acres of land) did not increase in the same proportion as the decline of large and middle peasantry, it can safely be assumed that many of the middle peasants may have been reduced to landless peasants or marginal farmers. In this context, Currie’s work and Gail Omvedt’s fieldwork in 1996 confirms that most Adivasis (tribals) and Dalits (comprising about 47 per cent of the population) have been divested of “good and fertile” lands and have become marginal farmers or labourers. In contrast, the low lands with high productivity and fertile lands are controlled by fewer than 10 per cent of the people, most of whom are non-Adivasi absentee landholders<sup>53</sup>.

Table 16 below shows an interesting correlation between the landholding size, and poverty and hunger. The figures reiterate the fact that land is an essential prerequisite for food security that the State must ensure to the people by making provisions and ensuring land distribution, and by strengthening regulatory and enforcement mechanisms to prevent further land alienation. It is also clear that small and marginal land holdings are more vulnerable to food insecurity and poverty than others in the ladder - the less land one has, the hungrier and poorer one is.

**Table 16: Hunger and Poverty by Farm Size in Rural India**

Land class	Percent of population	
	Hungry	Poor
Land less	49	54
<0.5 hectares	32	38
0.5-1 hectares	24	27
1.0-2 hectares	17	19
2.0-4 hectares	12	14
>4 hectares	12	13

Source: IARI-FAO/RAP study (2001) based on 50<sup>th</sup> NSS Round (1993-94).

### Land Induced Migration

Land induced migration in different parts of the state has varied reasons and types. In the coast, migration is mostly caused by landlessness. The agri-labourers who are invariably landless form the major migrant populace.

It is interesting to note that Ganjam, a coastal district, has the maximum number of agri-labourers in the state and also produces the maximum number of migrant labourers who mostly go as daily wage labourers to places like Surat, Nasik, Ahmedabad. Besides, the other feature of land induced migration in the coastal districts of Cuttack, Puri and Balasore is migration to the nearby urban centres for earning wages.

<sup>53</sup> Archana Prasad, HUNGER AND DEMOCRACY: Political Economy of Food in Adivasi Societies, People’s Democracy, Vol. XXV No. 44, November 04, 2001.



Migration in western Orissa is mostly due to lack of irrigation. Different studies reveal that even the landed peasantry in Bolangir, Kalahandi and Nuapada districts migrate between November and June. Most of them are either one crop farmers or agri-labourers that get work during the *Kharif* season.

### Conversion of Agricultural Land into Non-agricultural Purpose

One of the biggest threats, of late, to land ownership especially among the small and marginal farmers has been the large scale conversion of agricultural land for non agricultural purpose. Such conversion is particularly high in the coastal districts of undivided Cuttack, Puri, Balasore and Ganjam.

**Table 17: Loss of Agricultural Land**

Agricultural land (million hectares)			Gochur land (million hectares)			Cultivable wasteland (million hectares)		
1990-91	2005-06	Percentage loss	1990-91	2005-06	Percentage loss	1990-91	2005-06	Percentage loss
63.04	57.39	9	8.00	4.00	50	6.00	3.00	50

Source: Revenue Department, Government of Orissa, 2007.

According to Table 17, the State loses about 37,000 hectares of agricultural land every year. The loss in agricultural land is about 9 percent which is alarmingly high. But the loss in the two other categories is about 50 percent which is worrying.

Agricultural lands are privately owned, gochur land is a common village resource and cultivable waste is under government control. At a comparative level, the threat to common and government land is more than that to individually or privately owned agricultural land. The figures in the table clearly imply that there is a purposive move to divert land from the common and government control. If conversion moves at such a rapid pace in the coastal districts, within a span of 4-5 decades the State may lose a major portion of its agricultural land.

A large part of the land has been converted for non-agricultural purpose is expected to be used for SEZs and other industrial concerns that are estimated to require about 0.15 million hectares and another 0.3 million hectares for the development of industrial township. The State Government, in this context, is supported by the World Bank under the Administrative and Financial Reforms initiative for developing an administrative framework to facilitate such conversion of agricultural land into non-agricultural purpose. The framework also calls for making the forest clearance process easier to ensure a relatively faster diversion of forest land for industrialization.

In 2007, the State Government amending section 8A of the Orissa Land Reforms Act, 1960 to simplify the process of converting agricultural land for non-agricultural purpose. With the amendment, any person interested in conversion of agricultural land for non-agricultural purposes would be required to pay conversion charges for change of *kissam* without changing the land holding right. Under the revised procedure, an aggrieved person has the scope to appeal before the sub-collector.

**Table 18: Agriculture in Orissa**

Indicators	1951	1961	1971	1981	1991	2001
Share of Agriculture in NSDP	66.8		54.6		30	28.13
Percentage of total population living in rural areas	95.9	93.7	91.6	88.2	87.0	85.0
Percentage of total workforce engaged in agriculture		73.8	77.4	74.7	73.0	64.73
Percentage of cultivators to main workers		56.8	49.2	46.9	44.3	44.2
Percentage of agricultural labour to main workers		17.0	28.3	27.8	28.7	52.24
Per capita availability of cultivated land (hectares.)	0.39	0.38	0.31	0.20	0.18	0.17

Source: Economic Survey, Government of Orissa and Statistical Abstracts of Orissa.

## Impact on Food Production

The total population, as per the 2001 census, of Orissa is about 3.57 percent of the country but total food production is about 2.22 percent of the country. Out of the eight million families of the State, about 40 percent have agricultural land up to 1.3 hectares per family. The records of the Agriculture Department indicate that the per capita agricultural land was 0.39 hectares during 1950-51 and this has come down to 0.16 hectares in 2002-03. Similarly, during 1950-51 food production was 2.4 million metric ton (MT) which was 4.71 percent of that of the country and which has now come down to 2.22 percent

Food grain production has fluctuated in the State for the last five years. In 2001-02, production reached an all time high of 75.40 lakh MT which declined to only less than half in 2002-03. In 2003-04, it picked up to 71.52 lakh MT and in 2004-05, it has again come down to 69.65 lakh MT. In 2005-06, it went up to 73.59 lakh MT<sup>54</sup>. Table 19 provides details on the food grain production in Orissa.

**Table 19: Food Grain Production in Orissa (in lakh MT)**

Total Food Crop	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06
Rice	46.13	71.49	32.44	67.54	65.37	68.59
Cereals	47.67	72.81	33.50	68.86	67.04	70.23
Pulses	2.08	2.59	2.05	2.66	2.61	3.36
Food grains	49.75	75.40	35.55	71.52	69.65	73.59

Source: Directorate of Economics and Statistics, Bhubaneswar.

<sup>54</sup>Economic Survey 2006-07, Directorate of Economics and Statistics, Government of Orissa.

**Table 20: Decadal Figure of Farm Land and Landholding**

Year	Total farm land (in lakh hectares)	Average landholding (in hectares)	Remark
1971	64.94	1.9	Agricultural area and holding size is decreasing on a gradual basis, and this has impacted production.
1981	52.77	1.5	
1991	52.08	1.3	
2001		1.2	

Source: Directorate of Economics and Statistics, Bhubaneswar.

Over the last five decades, there has been a substantial decrease in the overall contribution from the agricultural sector to the Gross Domestic Product of the State. There has been a decrease in the percentage of cultivators to main workers and an increase in the percentage of agricultural labourers to main workers implying an increase in landlessness or near landlessness on account of growth of population and division of landholdings<sup>55</sup>. Per capita availability of cultivable land is fast decreasing and in the last five decades has gone down to almost half of what it was in 1951.

**Table 21: Decadal Growth of Food Grain Production and Area under Cultivation in Orissa**

Year	Area (in lakh hectares)	Production (in lakh MT)	Remark
1951	43.82	23.94	Area under cultivation increased till the 60s and after the 70s, it has experienced a downward growth. For the last four decades the average area has been 60 lakh hectares. Similarly, production has registered a three fold growth for the last five decades.
1961	45.28	40.5	
1971	59.50	43.54	
1981	67.38	55.36	
1991	60.46	73.87	
2001	53.68	75.40	

Source: Agricultural Statistics of Orissa – 1987, Economic Survey 1993-94, 2003-04

It is more or less evident from Table 21 that food grain production (except rice) has almost stagnated over the last 5 years. Similarly, production of a majority of the horticultural items and vegetables has also registered a decrease in production<sup>56</sup>.

The above information and analysis leads us to draw a conclusion that could be dangerous. It is now more than evident that in days to come the number of farmers would decrease, steady loss of farm land would mean; decreased employment in the farm sector, more number of agri-labourers with less work, more urban sprawl and poverty. Besides, severe food stress situation due to loss of land and decreased foodgrain production.

<sup>55</sup> Orissa Development Report, Planning Commission, Government of India.

<sup>56</sup> Economic Survey 2004-05, Government of Orissa.

## 6. Current Issues, Challenges and Suggested Actions

### Issues and Challenges

Poverty, as discussed in the preceding chapters, is invariably land based and is also intricately related to the access to and availability of land. Records reveal that all the landless are below poverty line, though the reverse is not always true. Though redistribution of land has been given utmost priority through a number of land reforms legislations, the implementation of some of the most progressive laws and rules has not been successful. Actual implementation of obtaining surplus land from the big peasantry and redistributing them within the landless has mostly failed. Redistribution has taken place in official records however its implementation on the field has yet to be completed.

This chapter discusses some of the crucial challenges to land reforms and the areas that need attention in policy making;

### Land to the Landless

1. The natural resource management policies in the State including access to and control over land, water and forest are now being decided from a mining and industrial perspective. For instance, recently released state forest policy is an IPR 2001 requirement, changes in the Orissa Land Reforms Act for making agricultural land conversion into non-agricultural purpose easier, proposal has gone for making land transfer from tribals to non-tribals possible through amending the 1956 Regulation 2, besides, all the reforms supporting industrialization are primarily for easier forest clearance, simplified revenue laws, etc.
2. Land distribution to the landless does not seem to have made much headway as a large number of people who had got land under various schemes and under ceiling surplus are still languishing in abject poverty due to lack of access to land. Issues that stand in the way are continuance of control by the previous owner, underdeveloped land, lack of record of rights, etc.
3. As regards settlement of tribal land, figures reveal that though tribal areas have less number of landless as compared to the land available for distribution, majority of the development induced displaced in these districts are still not given land. This raises doubts about the actual availability of land provided in government records and the amount of land encroached by the rich and influential.
4. Joint *patta*, though an official necessity for land distribution, has not been very successful. One of the main reasons for this is that below poverty line have to deposit a processing fee that acts as a disincentive in applying for a joint *patta*.
5. Due to lack of necessary records, the land distributed under *Bhoodan* either has gone back to the people who distributed them or the government. Due to lack of records, in the coastal districts, a large chunk of *Bhoodan* land is being illegally encroached by the rich and the influential.
6. One of the crucial issues in land distribution in the State is the lack of records on different *kissam* (category) of land in different *tehsils*. This is the reason for which incorrect data on actual

land possession and distribution is being given to the revenue headquarters. For which the scheme *Mo Jami Mo Diha* has only remained as a scheme of promise and very limited actual field level verification is going on. Besides, the lack of proactive involvement of the field level revenue officials and resultant limited action has helped the encroachers in continuing illegal possession of ceiling surplus land. Moreover, most of the *tehsils* do not have correct records on the actual number of revenue villages, boundaries, *kissam* of land, etc. There are either no or conflicting records on the amount of reserve forest areas at the district level for which the revenue authorities have even leased out forestlands.

7. The amendment to the section 8A of the Orissa Land Reforms Act to facilitate conversion of agricultural land for non-agricultural purpose will certainly address population growth, check urban sprawls and habitation. But the associated danger could be that such easier ways to convert agricultural land into non-agricultural purpose could only end up promoting industrialization at the cost of farming. Such apprehensions seem to have a strong basis as the move for industrialization and the said legal changes have come almost during the same time. The amendment prescribes for 50 percent and 100 percent conversion fee for those who have done the conversion before and after 1993 respectively. The Central Government has directed the State Governments not to get involved as middlemen in the purchase of land and leave that to industries and farmers. Similarly, the Orissa Resettlement and Rehabilitation Policy of 2006 proposes that industries may opt for direct purchase of land on the basis of negotiated price after issue of notification requiring acquisition of land. However, this may lead to the non-recognition and the dilution of the welfare role of the state and further exploitation of the tribals both by the project proponents and the emergent local land *dalals* (middlemen).
8. As per the SEZ provisions, up to 75 percent of the area under large SEZs can be used for non-industrial purposes. This facility for the SEZs violates the provisions of the Resettlement and Rehabilitation policy of Orissa, which says that land not utilized by the project within the prescribed time limit and also for the required purpose shall be resumed. This loophole is likely to be taken advantage of by private developers and property dealers. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 states that forestland rights can be vested to Scheduled Castes and Scheduled Tribes, where the land taken away from them was without compensation, and the land in question is has not been in use within five years for the purpose for which it was acquired. These are visible contradictions to the SEZ provisions.
9. The State Government has taken a decision to strictly implement all rules and orders meant for overall development of tribals for which Task Forces at three levels have been formed - at the State level, at the district and at the sub-divisional level. The objective of the task force is to monitor the actual possession of land distributed under various schemes. While this is a positive move, the effectiveness of the task force committees is hampered as there is no regular meeting, no demand for action taken, and no data available on actual implementation.
10. Though many families have received land passbooks they do not have actual possession.
11. The Gram Sabha now has a limited role in the settlement of rights nor is its consent mandatory in diversion of forest land for non-forest purposes. This authority now lies with the sub-divisional committee. Similarly, as regards deciding the critical wildlife habitat in a protected area, Gram Sabha will have a smaller role. In cases of eviction or relocation, the Gram Sabha will only give its informed consent on the resettlement package. It will not have the right to disagree.

## Land Use Change and Associated Alienations

12. The small and marginal holders within the Scheduled Caste and Scheduled Tribe community are fast losing their land either through outright sale or through lease.
13. A crucial question involves the use of land in the days to come. Large scale land use for non-agricultural purposes may push the country into importing food on a regular basis. It is estimated that the land taken for the SEZ produced food for about 2.4 lakh people. Hundreds of such SEZs will certainly cause a large dent in the food availability within the country. Experts also believe that the number and percentage of indirect starvation will increase and the total amount of direct and indirect hunger may touch about 10 percent of the country's population. India's current food grain availability is about 200 kg per person, as against the world average of 310 kg per person. If unchecked, it is expected that the SEZ phenomena can turn the endemic famine into a full blown one<sup>57</sup>. Therefore, land use, food security and maintaining the nutritional balance are some of the issues that India will encounter and need to deal with.
14. In order to check quick conversion of agricultural land for non-agricultural purposes, the Central Government has come out with a new policy that is expected to go a long way in dealing with the rampant conversion for SEZs. A Special Commission has been constituted to stop conversion of land which is capable of double or even triple crop. The Commission is also expected to be vigilant to ensure that as far as possible less amount of irrigated land is acquired for conversion and mainly unirrigated and uncultivable wasteland is acquired.
15. Investment in agricultural input is expected to increase to balance decreasing agricultural production and productivity that is caused by and likely to be caused by the large scale industrialization and creation of SEZs,. As per a Central Government directive in January 2007, fertilizer subsidy will increase up to Rs. 30, 000 crore and urea production will increase from 10 MT to 30 MT in the next five years. This high input orientation in farming will again marginalise the small and marginal farmers.
16. Orissa is getting a 'Mines Unlimited' identity which means that the check on the extent of forest and farm land diversion for mining will be minimal. Most of the state machineries are directed to ensure land and other facilities but hardly any towards monitoring and ensuring corporate compliances. It is now being made to understand that the State would rather play a neutral role both in terms of land acquisition and compensation, which is a complete negation of the welfare state that is expected to side with the poor and the hapless.
17. As per the law, if the purpose for which a government land is leased out to an individual or company is not used for that purpose, the Government should immediately cancel such lease. However this has not been the case as due to non-availability of correct records, large tracts of land leased out to companies are lying unused and no subsequent cancellation of lease has taken place.
18. Major conflicts that have taken place during land acquisition are because of the superseding of the decision of the *Gram/Palli Sabha*. Though the 'informed consent' of the concerned *Gram Sabha(s)* is mandatory, more often than not this process follows unfair means.

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<sup>57</sup> Karan Manveer Singh, Land use and food security, Open Page, The Hindu, 8<sup>th</sup> October 2006.

### Commercial Farming, Food Security and Land Alienation

19. The Land utilisation pattern in the State is fast changing in favour of cash and non-food crops. The irony is that such diversion of species is taking place in food scarce areas of western and southwestern Orissa. The most affected populace are the Scheduled Tribes and Castes.
20. Cash crop cultivation in tribal pockets is intruding the traditionally grown highland cereals (black gram, horse gram) and minor millets (*Arhar, Janha, Suan*) area leading to constant decrease in the production and non-availability of cereals and millets. This contributes to the growing food scarcity and nutritional imbalance in the tribal areas of the state.
21. Due to the loss of agricultural land in the coast, and more and more land being covered by non-food cash crops, there is a decrease in food grain production and significant hike in food prices. Reports now conclude that prices do not rise only because of the rising demand for food but also because of the increasing use of the produce in the non-food sector like bio-fuel. Globally, the price of food has increased by 80 percent, because of diversion of food crops (maize in particular) for first generation bio-fuel<sup>58</sup>.
22. At the moment, there is no mechanism to regulate the contract farming institutions as well as traders/buyers coming from other states to the tribal areas for cash crop farming. In the undivided Kalahandi Bolangir Kpraput area and other tribal districts like Kondhamal and Keonjhar, formal and informal forms of contract farming are going on without the knowledge of the government authorities. The terms and conditions of production and trade including price, inputs, procurement, are heavily in favour of the traders or farming institutions.

### Land Holding, Farmland Conversion and Food Grain Production

23. State losses about 37,000 hectares of agricultural land every year. Such loss in agricultural land is about 9 percent but with Gochur and cultivable waste the loss is about 50 percent.
24. Agricultural area and holding size is decreasing on a gradual basis, which has impacted production. The small and marginal holders within the Scheduled Castes and Scheduled Tribe community are fast losing their land either through outright sale or through leasing.
25. Land is an essential prerequisite for food security that the State must ensure to the people through making provisions and ensuring land distribution, and through strengthening regulatory and enforcement mechanisms to prevent further land alienation. It is also clear that small and marginal land holdings are more vulnerable to food insecurity and poverty than others in the ladder - the less land one has, the hungrier and poorer s/he is.

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<sup>58</sup> Nidhi Mittal, Food Ulcer, Pioneer, New Delhi, 11.05.08.

## Suggested Future Action

1. State Governments that have a sizeable acreage of land surplus due to the enforcement of ceiling limits but that are not able to allot it due to litigation may immediately undertake an exercise to identify and segregate such cases and set up special Land Tribunals to expeditiously dispose of these cases within a specified time limit. Monitoring cells may also be set up to watch the disposal of cases involved in litigation.
2. As per the recommendation of the Eighth Plan Working Group on the Development and Welfare of Scheduled Castes, fallow land should be compulsorily taken over for allotment to Scheduled Caste families on a preference basis, making necessary provision in the existing laws, where necessary.
3. Panchayat Extension to Scheduled Areas Act 1996 (PESA) is applicable only to the scheduled area but a large part of the tribal population lives outside the scheduled area. Therefore, the provisions of PESA should be applicable to villages/areas where there is sizeable tribal population.
4. During land acquisition for industrial and mining projects, the land requirement has to be assessed not only by the project authorities or by a technical committee but also by a neutral third party consisting of the local Panchayati Raj Institution members, local NGOs, industry representatives and the Government.
5. The Land Acquisition Act of 1894 and the Coal Bearing Act of 1957 should be amended in the line of the provisions of PESA. Keeping in mind the nature and extent of conflict in land acquisition in the mineral rich areas, a separate land acquisition act for such areas with the provisions of PESA should be duly formulated.
6. Land acquisition by Government for 'public purpose' should be minimized to the extent possible; for the provision of basic infrastructure.
7. The alarming rate at which agricultural land is being converted to non-agricultural land needs to be stopped. Just like the national criteria of 33 percent forest cover is set a similar percentage should be earmarked for agricultural land and the conversion process should be further refined.
8. All new homestead land distributed to landless families should be only in the woman's name.
9. Model terms of reference should be developed for contract farming agreements. All contracts should be recorded and as far as possible, enforcement of contract and further commitments should be part of the law. Since the agreement is between a trading house and an illiterate tribal, there has to be a third party to oversee and monitor the terms of the trade. Procedural space should be created so that district authorities are aware of details about contract farming operations. A committee either at the district or block level could be formed for such farming regulation and conflict resolutions.
10. The contract must provide crop insurance facility to contract farmers. Besides, it should also provide environmental safeguards. The Government must ensure that the contract farming practice does not threaten the bio-diversity and agricultural ecology of the area.
11. The State should consider not proposing amendment to the Orissa Scheduled Areas Transfer of Immovable Property Regulation, 1956 that would enable transfer of tribal land to the non-tribals. On the contrary, it should strengthen the Orissa Scheduled Areas Transfer of Immovable Property Regulation, 1956 in lines with *Samata* Judgment<sup>59</sup> and tribal land protection laws in Andhra Pradesh.

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<sup>59</sup> Supreme Court's judgement which came in 1997 on restricting mining in the schedule V areas in Andhra Pradesh and *Samata* is the name of the NGO which fought the case.



12. Survey and settlement operations should be taken up in those areas where it has not been done so far to remove any confusion or uncertainty. Survey of the hill slopes up to 30° should be mandatory and done in the States with Schedule areas and such lands should be settled in favour of tribals doing shifting cultivation and subsistence agriculture. This will not only confer land rights on the tribals occupying such lands, but also help improve the forest cover.
13. The minor mining concession rules should be modified to reflect the provision requiring consent of the Gram Sabha/Palli Sabha for each. Specifically the provision should lay the onus on the mining departments for obtaining no objection certificates and this should be done after the Gram Sabha has been provided with the map of the areas to be mined and information, which is relevant to this.
14. Resettlement and rehabilitation should be completed prior to the commencement of the project. Already committees have been prescribed to oversee resettlement and rehabilitation. The Committee should consist of not only government officials but also prominent civil society institutions as well as representatives of the displaced families. Any land acquisition within the village boundary should require the consent of the Gram Sabha/Palli Sabha. Neutral observers should oversee the Gram Sabha proceedings.
15. In order to control *benami* land transactions, ceiling surplus land should be in the name of both husband and wife. The issue of land ceiling should have a built in clause of gender equity. It should not just assume that there is a law to address it. Besides, no processing fee should be charged for applying for joint *patta*.

## Annexure-1

### District-wise Figures on Landless and Available Land

District	Landless	Waste land/ ceiling surplus land available for agriculture purpose (available land in acres)	District	Landless	Waste land/ ceiling surplus land available for agriculture purpose (available land in acres)
Cuttack	24415	3715.26	Keonjhar	17553	17875.81
Kendrapara	3405	6366.21	Dhenkanal	18808	33280.640
Jajpur	44646	14239.38	Angul	8955	25396.65
Jagatsinghpur	11835	4576.18	Bolangir	23079	18930.38
Puri	2455	3726.15	Sonepur	9161	12346.015
Nayagarh	6395	5376.00	Ganjam	30534	24954.245
Khurda	17066	7445.68	Gajapati	14998	10589.242
Balasore	34409	8395.02	Kalahandi	14901	–
Bhadrak	7898	5639.81	Nuapada	9779	33861.02
Mayurbhanj	24155	48578.57	Koraput	18476	10546.881
Sambalpur	8432	12727.69	Malkangiri	4866	39955.668
Deogarh	5307	11325.15	Nabarangpur	16920	35472.82
Bargarh	17967	20556.72	Rayagada	21663	13707.05
Jharsuguda	3014	5002.35	Kandhamal	8780	22267.23
Sundargarh	3823	19274.94	Boudh	11755	64596.70
			<b>Total</b>	<b>445450</b>	<b>540725.461</b>

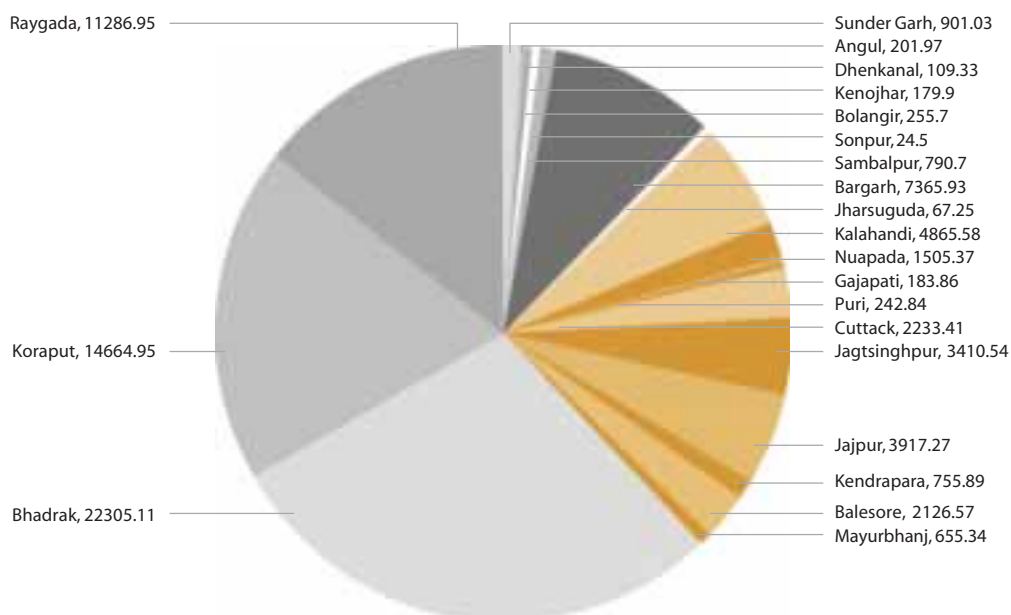
Source: Revenue Department, Government of Orissa 31/12/2006.

## Annexure-2

### Land Distribution under *Bhoodan* Land

Status of Land Distribution under <i>Bhoodan</i> to the Landless	
District	Distribution (%)
Kendrapara	7.73
Mayurbhanj	7.77
Balesore	8.18
Bhadrak	15.42
Dhenkanal	12.17
Gajapati	13.21
Jagatsinghpur	9.59
Jajpur	10.95
Kandhamala	14.48
Keonjhar	14.55
Khurda	11.25
Nayagada	8.7
Puri	11.87

### Undistributed (*Bhoodan*) Land in Orissa (acre/decimal)



## Annexure-3

### District-wise Bhoodan Land Position

Sl No	Name of the district	Land donated (in acres)	Land distributed (in acres)	Land available for distribution (in acres)
1	SUNDARGARH	3,204.23	2,303.20	901.03
2	ANGUL	7,353.84	7,151.37	201.97
3	DHENKANAL	37,716.38	37,607.05	109.33
4	KEONJHAR	13,787.15	13,607.05	179.90
5	BOLANGIR	7,116.05	6,850.70	255.70
6	SONEPUR	52.93	28.43	24.50
7	PHULBANI	31,076.58	31,076.58	-
8	SAMBALPUR	1,454.62	663.92	790.70
9	BARGARH	26,287.95	18,992.02	7,365.93
10	JHARSUGUDA	267.11	199.86	67.25
11	RAYAGADA	93,567.87	82,281.02	11,286.95
12	NAWARANGAPUR	1,05,551.37	1,05,551.37	-
13	KORAPUT	1,79,811.01	1,65,146.99	14,664.02
14	MALKANGIRI	26,876.50	26,876.50	-
15	KALAHANDI	5,990.87	1,125.29	4,865.58
16	NUAPADA	7,943.92	6,438.55	1,505.37
17	GANJAM	8.00	8.00	-
18	GAJAPATI	30,419.26	30,235.30	183.96
19	PURI	8,717.24	8,486.40	230.84
20	KHURDA	566.42	566.42	-
21	NAYAGARH	3,634.13	3,634.13	-
22	CUTTACK	4,146.88	2,913.27	2,233.41
23	JAGATSINGHPUR	6,496.29	3,085.75	3,410.54
24	JAJPUR	5,922.48	2,005.21	3,917.27
25	KENDRAPARA	1,281.16	525.27	755.89
26	BHADRAKA	6,111.55	3,806.44	2,305.11
27	BALASORE	16,142.82	14,016.25	2,126.57
28	MAYURBHANJA	8,071.20	7,415.86	655.34
29	BOUDH	-	-	-
30	DEOGARH	-	-	-
	<b>TOTAL</b>	<b>6,38,706.50</b>	<b>5,79,996.29</b>	<b>58,710.29</b>

Source: ORISSA BHOODAN YAGNA SAMITI, BHUBANESWAR, as on 31/03/2006.

## Annexure--4

## Land Utilisation Statistics 2004-2005

Sl.No	District	Geographical Area	Forest Area	Misc. Tree & groves	Permanent Pasture	Culturable Waste	Land Put to Non Agril. Use	Barren & Unculturable Land	Current Fallow	Other Fallow	Net Area Sown
1	Balasore	363	33	9	12	9	43	3	12	10	232
2	Bhadrak	268	10	17	14	11	21	4	7	13	171
3	Bolangir	657	154	25	32	22	40	34	6	12	332
4	Sonepur	234	41	15	13	8	20	22	4	4	107
5	Cuttack	373	79	5	10	11	60	8	13	23	164
6	Jagatsinghpur	197	13	4	7	17	38	3	11	5	99
7	Jajpur	289	72	4	4	4	20	5	14	14	152
8	Kendrapara	255	25	6	8	7	42	1	14	14	138
9	Dhenkanal	460	174	8	10	5	20	10	27	40	166
10	Angul	623	272	28	11	11	35	32	24	15	195
11	Ganjam	871	315	22	20	11	60	37	15	11	380
12	Gejapati	385	247	12	6	3	10	24	5	3	75
13	Kalahandi	836	314	8	23	23	35	42	11	20	360
14	Nawapara	341	125	5	10	4	9	8	15	2	163
15	Keonjhar	830	310	6	34	38	55	75	14	10	288
16	Koraput	790	188	60	28	29	43	122	15	18	287
17	Malkangiri	619	335	15	14	5	30	58	14	21	127
18	Nawarangpur	529	246	10	4	6	18	15	4	14	212
19	Rayagada	758	281	21	26	22	38	143	43	33	151
20	Mayurbhanj	1042	439	15	24	10	50	27	52	36	389
21	Phulbani	765	571	5	10	5	16	18	17	6	117
22	Boudh	345	128	19	17	27	21	12	4	32	85
23	Puri	305	14	25	11	22	46	5	15	32	135
24	Khurda	289	62	15	6	13	34	14	7	5	133
25	Nayagarh	424	208	22	12	11	24	12	3	1	131
26	Sambalpur	670	363	33	12	10	31	10	15	17	179
27	Bargarh	584	122	29	10	12	50	15	26	1	319
28	Deogarh	278	156	9	8	5	14	2	7	12	65
29	Jharsuguda	220	20	27	31	15	26	12	8	3	78
30	Sundargarh	971	496	3	16	16	50	70	4	7	309
	Total	15571	5813	482	443	392	999	843	426	434	5739

Source: ORISSA BHOODAN YAGNA SAMITI, BHUBANESWAR, as on 31.03.2006.

## Annexure-5

### Extent of Tribal Land Alienation in Some States

Sl.No	State	No. of cases filed in the Court	Area	Cases Disposed off by the Court	Area	Cases Rejected	Area	Cases Decided in favour of Tribals	Area	Cases in which land was restored to tribals	Area	Cases Pending in Court	Area
1	2	3	4	5	6	7	8	9	10	11	12	13	14
				(7+9)	(8+10)							(3-5)	(4-6)
1	Andhra Pradesh	65875	287776	58212	256452	31737	150227	26475	106225	23383	94312	7663	31324
2	Assam	2042	4211	50	19	-	-	50	19	50	19	1992	4192
3	Bihar*	86291	104893	76518	95151	31884	49730	44634	45421	44634	45421	9773	9742
4	Gujarat	47926	140324	40400	120691	119	497	40281	120194	39503	118259	7526	19633
5	Karnataka	42582	130373	38521	115021	16687	47159	21834	67862	21834	67862	4061	15352
6	Madhya Pradesh#	53806	158398	29596	97123	29596	97123	NR	NR	NR	NR	24210	61275
7	Maharashtra	45634	NR	44624	®99488	24681	NR	19943	99486	19943	99486	1010	NR
8	Orissa	1431	1712	594	816	152	204	442	612	212	455	837	896
9	Rajasthan	651	2300	240	774	53	187	187	587	187	567	411	1526
10	Tripura	28926	25295	28888	25274	20084	18366	8804	6908	8551	6732	38	21
	<b>TOTAL</b>	<b>375164</b>	<b>855282</b>	<b>317643</b>	<b>810807</b>	<b>154993</b>	<b>363493</b>	<b>162650</b>	<b>447314</b>	<b>158297</b>	<b>433133</b>	<b>57521</b>	<b>®43961</b>

Source : Directorate of Land Reforms, Ministry of Rural Development.

\* Including Jharkhand

# Including Chhattisgarh

@ Figures inclusive

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