



सत्यमेव जयते

**REPORT OF THE
HIGH LEVEL COMMITTEE ON SOCIO-
ECONOMIC, HEALTH AND EDUCATIONAL
STATUS OF TRIBAL COMMUNITIES OF INDIA**

**Ministry of Tribal Affairs
Government of India
May, 2014**

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List of Abbreviations

ADC	Autonomous Development Council
AHS	Annual Health Survey
ANC	Antenatal Care
ANM	Auxiliary Nurse Midwife
AnSI	Anthropological Survey of India
ASHA	Accredited Social Health Activist
ATR	Andaman Trunk Road
AYUSH	Ayurveda, Yoga, Unani, Siddha, and Homeopathy
BMI	Body Mass Index
BPL	Below Poverty Line
CABE	Central Advisory Board of Education
CCI	Cabinet Committee on Investment
CED	Chronic Energy Deficiency
CFR	Community Forest Rights
CHC	Community Health Centre
CPR	Common Property Resources
CPR	Contraceptive Prevalence Rate
CSS	Centrally Sponsored Schemes
CTA	Criminal Tribes Act
CWH	Critical Wildlife Habitats
DLHS	District Level Household Survey
DNT	De-notified Tribes
DRDA	District Rural Development Agency
DPs	Displaced Persons
EIA	Environment Impact Assessment
EMRS	Eklavya Model Residential Schools
FRA	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
FRC	Forest Rights Committee
GER	Gross Enrollment Ratio
GS	Gram Sabha

HLC	High Level Committee
HOH	Household Ownership Holdings
ICMR	Indian Council of Medical Research
IDBI	Industrial Development Bank of India
IEC	Information Education and Communication
IFR	Individual Forest Rights
IMR	Infant Mortality Rate
IOI	Incidence of Indebtedness
ITDP	Integrated Tribal Development Program
JFM	Joint Forest Management
JSSK	Janani Shishu Suraksha Karyakram
JSY	Janani Suraksha Yojana
LFPR	Labour Force Participation Rate
LWE	Left-Wing Extremism
MADA	Modified Area Development Approach
META	Medical Education for Tribal Areas
MFP	Minor Forest Produce
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act, 2005
MLA	Member of Legislative Assembly
MMR	Maternal Mortality Rate
MoEF	Ministry of Environment and Forests
MoSPI	Ministry of Statistics, Planning and Implementation
MoTA	Ministry of Tribal Affairs
MOU	Memorandum of Understanding
MPCE	Monthly Per Capita Expenditure
MPP	Mandal Praja Parishad
MTDP	Multipurpose Tribal Development Projects
NABARD	National Bank for Agriculture and Rural Development
NAC	National Advisory Council
NCERT	National Council of Educational Research and Training
NCST	National Commission for Scheduled Tribes
NDE	Non-Directory Establishments
NDTE	Non-Directory Trading Establishments

NFHS	National Family Health Survey
NGT	National Green Tribunal
NHB	National Housing Bank
NHRC	National Human Rights Commission
NMR	Neonatal Mortality Rate
NNMB	National Nutrition Monitoring Bureau
NPNL	Non-Pregnant Non-Lactating
NRHM	National Rural Health Mission
NSSO	National Sample Survey Organisation
NTCA	National Tiger Conservation Authority
NTFP	Non-Timber Forest Produce
OA	Operational Areas
OAE	Own Account Enterprises
OATE	Own Account Trading Enterprises
OBC	Other Backward Classes
OH	Operational Holdings
OTFD	Other Traditional Forest Dwellers
PA	Protected Areas
PAPs	Project affected Persons
PESA	Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996
PHC	Primary Health Centre
PIL	Public Interest Litigation
PMO	Prime Minister's Office
PSU	Public Sector Undertakings
PVTG	Particularly Vulnerable Tribal Groups
R&R	Resettlement and Rehabilitation
RDA	Recommended Daily Allowance
RDI	Recommended Daily Intake
RGI	Registrar General of India
RTE	Right of Children to Free and Compulsory Education Act, 2009
SEZ	Special Economic Zones
SLP	Special Leave Petition
SPO	Special Police Officers

SRS	Sample Registration System
SSA	Sarva Shiksha Abhiyan
ST	Scheduled Tribes
TAC	Tribes Advisory Council
TDI	Tribal Development Index
TDB	Tribal Development Blocks
TFR	Total Fertility Rate
THI	Tribal Health Index
TRI	Tribal Research Institute
TSP	Tribal Sub Plan
U5MR	Under-five Mortality Rate
UPS	Usual Principal Status
UR	Unemployment Rate
UT	Union Territory
VSS	Van Samrakhyan Samiti
WLPA	Wildlife Protection Act, 1972
WPR	Worker Population Ratio

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1. Preface

The Indian State must aim to ensure that all sections of society share in the economic and social prosperity of the country. It is widely acknowledged that a large section of the Indian population, especially the tribal communities, have not received the full benefits of development processes undertaken over the past six decades. Indeed, it is recognised that the tribal population has been adversely affected by the developmental projects undertaken during this period. It is imperative that the causes, circumstances and consequences of this situation are studied and analysed in detail in order to design appropriate interventional measures to remedy the current state of affairs and uphold the progressive principles enshrined in the Constitution of India.

Accordingly, the Prime Minister's Office constituted a High-Level Committee (HLC) in August 2014, consisting of the following members: Prof. Virginius Xaxa as Chairperson, Dr. Usha Ramanathan, Dr. Joseph Bara, Dr. K.K. Misra, Dr. Abhay Bang, Smt. Sunila Basant, and Dr. Hrusikesh Panda, Secretary, Ministry of Tribal Affairs, as Member-Secretary. The Committee was mandated to examine the socio-economic, educational and health status of tribal communities and recommend appropriate interventional measures to improve the same. The Committee formulated thematic sections based on various socio-economic parameters mentioned in the Terms of Reference and each theme was taken up by individual members based on their areas of expertise.

The decision of the Prime Minister's Office to constitute this Committee is an indication of the Centre's commitment to tribal welfare and willingness to make appropriate amendments in programmes and policies to alter the dismal situation of the tribal population in contemporary India. The HLC is honoured to have had the opportunity to prepare this report on a matter of immense importance for the country.

The Committee's visits to various tribal areas and interactions with people have only strengthened our belief in the urgent need for rethinking the prevailing model of development and a shift in the State's approach to the tribal question. The HLC sincerely hopes that the recommendations be incorporated into State laws, policies and practices. Doing so is essential in order to strengthen existing and future programmes and laws for the Scheduled Tribes.

The task assigned to the Committee was formidable and challenging. The primary limitation faced by the HLC was that of inadequate time. Nonetheless, the Committee persevered to compile the report within the stipulated time period. While the report was to be submitted by May 13, 2014, the Committee has taken an additional two weeks for completion. The Chairperson wishes to express his sincere gratitude to all the members of the Committee for their time, effort and commitment in preparing this report, despite several other personal and professional obligations.

Such a mammoth exercise would have been impossible without the generous help of numerous individuals and organisations. The former Minister of Tribal Affairs, Dr. Kishore Chandra Deo shared his insights into the conditions of tribals with the Committee at the very outset. The HLC is extremely grateful to him.

We are thankful to the former Member-Secretary, Smt. Vibha Puri Das for setting in motion the work of the HLC and providing the impetus to take this report forward, furnishing logistical, moral and intellectual support until her retirement in December 2013.

At the Ministry of Tribal Affairs, the Committee thanks the Deputy Director-General (Statistics), Dr. Siladitya Chaudhuri, for his dedicated efforts in the formation of task groups and initial collection of data. The HLC is also grateful to Joint Secretaries, Shri Ashok Pai and Shri Manoj Pingua (former Secretary, Tribal Welfare, Government of Chhattisgarh), and Economic Advisor, Smt. Sangeeta Verma for their help.

Special thanks must go to Dr. Namita Priyadarshee, Director (High Level Committee) for her enormous efforts in ensuring the completion of the report. The staff and consultants at the HLC secretariat – Shri Harvinder Singh, Shri M.P. Saini, Ms. Poonam Madhwal and Shri Sandeep Kumar – provided the Committee with invaluable administrative support, without which our task could not have been accomplished successfully.

The HLC wishes to thank the office of the Registrar General of India, the National Sample Survey Organisation (NSSO), Chief Statistician of India and Secretary, Ministry of Statistics, Planning and Implementation (MoSPI) for providing the Committee with valuable statistical data. For sharing information on various developmental indices, we are extremely grateful to the Ministry of Rural Development; Ministry of Micro, Small and Medium Enterprises; Ministry of Labour and Employment; Ministry of Agriculture (Department of Agriculture and Cooperation and Department of Animal Husbandry, Dairying and Fisheries); Ministry of Human Resource Development (Department of Higher Education and Department of School Education and Literacy); Ministry of Health and Family Welfare (Department of Health and Family Welfare and Department of AYUSH) and Ministry of Social Justice and Empowerment. The Committee benefitted immensely from the efforts of the various State Government departments which submitted data on tribal development, hosted the Committee by arranging field visits and arranged meetings with local leaders and Government officials.

The HLC would like to acknowledge the National Law University, Dwarka, New Delhi, for providing logistical support at the initial stage. The HLC is obliged to the experts – Dr. K.B. Saxena, Shri C.R. Bijoy, Shri Suhas Chakma, and Shri Tushar Dash – who participated in the workshop organised in April, for contributing to the

report with their knowledge and expertise on tribal issues. We would also like to thank Prof. Tiplut Nongbri for her suggestions.

Several Non-Governmental Organisations (NGOs), community organisations, academics and members of the public took time out to submit suggestions to the HLC, which the HLC has taken note of and incorporated in the report. The Committee is indebted to the NGOs and researchers who provided us with valuable reports and data, and who organised meetings, workshops and public hearings to collect information for the purpose of this report.

The HLC received research assistance from individual consultants and agencies namely, Prof. M. Gopinath Reddy, Centre for Economic and Social Studies (CESS) Hyderabad; Dr. K. Koteswara Rao; Prof. Chander Shekhar and Prof. Faujdar Ram, International Institute of Population Sciences (IIPS), Mumbai; Dr. Joseph Marianus Kujur, Indian Social Institute, New Delhi; Bhaskar Kumar Kakati, Amba Kak, Lubhyathi Rangarajan, Tanya Matthan, Ganesh Manjhi and Bipasha Rosy Lakra. The tireless efforts of the consultants are highly appreciated by the Committee. The HLC is thankful for the efforts of Dr. Madhavi Panda, who worked diligently to edit the report at extremely short notice and Shri Dilip Kumar for his patient technical assistance.

All Committee Members

2. Introduction

The tribal population in India, though a numerically small minority, represents an enormous diversity of groups. They vary among themselves in respect of language and linguistic traits, ecological settings in which they live, physical features, size of the population, the extent of acculturation, dominant modes of making a livelihood, level of development and social stratification. They are also spread over the length and breadth of the country though their geographical distribution is far from uniform. A majority of the Scheduled Tribe population is concentrated in the eastern, central and western belt covering the nine States of Odisha, Madhya Pradesh, Chhattisgarh, Jharkhand, Maharashtra, Gujarat, Rajasthan, Andhra Pradesh and West Bengal. About 12 per cent inhabit the Northeastern region, about five per cent in the Southern region and about three per cent in the Northern States.

Groups and communities identified and enumerated as tribes during British rule came to be re-classified as Scheduled Tribes after the Constitution was adopted in 1950. The Constitution, as per Article 342, provided for the listing of these groups in the Schedule so that certain administrative and political concessions could be extended to them. Thus, a distinction was drawn in the form of tribe as a social and cultural entity and tribe as a politico-administrative category. However, there were groups and communities who belonged linguistically, socially and culturally to the same community but found themselves listed in some States of the Indian Union but not in other, often neighbouring, States. Similarly within the State, the same community may have found itself listed in some regions but not in others.

There has also been the exclusion of certain groups from the Schedule due to differential spellings in the names of the communities. Such anomalies were wide spread at the time of adoption of the Constitution, although some corrective measures have been taken from time to time. This partially explains why there has been a phenomenal increase in the number of communities in the Scheduled Tribe category as well as some increase in the total size of the tribal population. Even today, there are demands being made by groups in different parts of the country for inclusion in the category on various grounds. Thus, 'tribe' continues to be an important marker of identity and mode of political articulation among several communities in India.

The High Level Committee (HLC) was constituted by the Prime Minister's Office in August, 2014 to look into the socio-economic, educational and health status of the tribals of India. The Terms of Reference (TOR) of the HLC refers to 'tribal communities' which expands the scope of this report beyond the politico-administrative category of Scheduled Tribes. As mentioned earlier, the category of 'tribe' entails a social and cultural dimension but the Scheduled Tribe category has politico-administrative implications. The demand for Scheduled Tribe status continues to this day and there is no guarantee that such demands will not emerge in the future.

The Constitution did not define the criteria for recognition of Scheduled Tribes and hence the Lokur Committee was set up to look into this issue. The Committee recommended five criteria for identification, namely, (1) primitive traits (2) distinct culture, (3) geographical isolation, (4) shyness of contact with the community at large and (5) backwardness. However, some of these criteria carry forward certain paternalistic and pejorative connotations from the colonial era. Features associated with the idea of 'indigenous peoples' may serve as a useful pointer in this regard, although the term 'indigenous' is more accurate in the context of North and South America and Australia. In South Asia, this term has been questioned since it assumes a theory of Aryan invasion. However, many tribal communities employ the term 'adivasi' (original inhabitant) as a political term of self-reference – although this term is not recognised by the Government of India. While tribes have a distinct culture and history, they also share commonalities with other marginalised sections of Indian society, such as the lack of adequate political representation, economic deprivation and cultural discrimination. Beyond their marginality, however, the many positive features of tribal society must be appreciated and it must be recognised that non-tribal people have much to learn from the richness of tribal cultures and systems of knowledge.

The tribal population, scattered across the country, is differently placed with respect to the politico-administrative structures existing in the country. Where they are a numerical minority, they are a part of the general administrative structure of the country, although certain rights have accrued to Scheduled Tribes across the country through reservations in educational institutions and government employment. However, where they are numerically dominant, two distinct administrative arrangements have been provided for them in the Constitution in the form of the Fifth and Sixth Schedules. The Sixth Schedule areas are some of the areas which were 'excluded' until the Government of India Act, 1935 in the erstwhile Assam and other tribal-dominant areas which became separate States. These areas have been given special provisions under Part XXI of the Constitution. The extension of such provisions to newer areas has been the result of political mobilization and social movements. Similarly, there are States where the provisions of the Fifth Schedule are in force. The Fifth Schedule is aimed at providing protections to the tribal population through separate laws for Scheduled Areas, including a special role for the Governor and the institution of Tribes Advisory Council. The provisions of the Fifth Schedule have seen further legal and administrative reinforcement in the form of Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996.

Despite these special provisions, tribes are among the poorest and most marginalized sections of Indian society. Although numerically only about 8.6 per cent, they disproportionately represent the people living below the poverty line, are illiterate and suffer from extremely poor physical health. To illustrate, 45.7 per cent of the population as a whole was below the poverty line in 1993-94. In the same year, 63.7

per cent of tribal people were living below the poverty line, almost 20 per cent than the rest of the country. The poverty figures were 37.7 and 60.0 per cent respectively in the year 2004-05. The scenario has been similar in the sphere of education and health. The literacy rate of tribes in 2001 was 47 per cent as compared to 69 per cent for the general population. Moreover, as per the National Family Health Survey, 2005-06, the Infant Mortality rate was 62.1 per 1000 live births among tribes, and Under-five Mortality was as high as 95.7 per 1000 live births.

In acknowledgement of the marginality of tribal communities, a number of Committees and Commissions have been constituted over the years by the government to look into the issues facing tribal communities, apart from numerous other bodies which have examined the status of tribes as part of broader thematic investigations. One of the first committees set up in this regard post-1947 was the Elwin Committee which was to examine the functioning of Multi-Purpose Development Blocks, the basic administrative unit for all tribal development programmes. This was followed by the U.N. Dhebar Commission, constituted in 1960 to address the overall situation of tribal groups, including the issue of land alienation in tribal areas. The Lokur committee, set up in 1965, looked at matters relating to the scheduling of groups as Scheduled Tribes. It was this committee which delineated the criteria for scheduling, which continues to operate to this day. The Shilu Ao committee, 1966, like the Elwin committee, addressed the issue of tribal development and welfare.

The 1970s, too, saw the constitution of several committees to address tribal problems and it was on the basis of the recommendations of some of these committees that the Tribal Sub-Plan approach of the government emerged. The committees constituted in the more recent years have been the Bhuria Committee (1991) and the Bhuria Commission (2002-2004). The Bhuria Committee recommendations paved the way for the enactment of the PESA Act, 1996, while the Bhuria Commission focused on a wide range of issues from the Fifth Schedule to tribal land and forests, health and education, the working of Panchayats and the status of tribal women. The most recent committees have been the Bandopadhyay Committee, which looked at development and governance in Left-Wing Extremist areas, and the Mungekar Committee, which examined issues of administration and governance.

The issues that the above mentioned Committees have dealt with fall broadly into two categories: development and protection. And yet, on both these issues, the outcome for tribal communities has been mixed. Through the last six decades, the State has emphasized development while doing little to enhance the protections provided in the Constitution through the everyday practice of statecraft. Rather, the protective measures have been violated by the very State which is supposed to ensure the enforcement of these protections. It is this which largely explains the marginal status of tribal communities.

The constitution of this High Level Committee by the Prime Minister's Office marks the recognition of the fact that Scheduled Tribes have lagged behind other segments of the population in respect of overall economic standing, education and health status, despite the country having witnessed a relatively high growth rate in last two decades. However, this growth seems to have bypassed the tribes as tribes seem to have not done well with respect to all indicators of development at the national level. The Terms of Reference centres on the socio-economic, education and health status of tribal communities (Annexure 1). However, issues of law and administration have been included in our report, particularly since socio-economic status is intimately connected to legal frameworks and political arrangements.

In the course of preparing our report, the Committee went through several constraints which must be mentioned at the outset. The most important limitation was that of time, particularly since our visits to the States and interactions with the State Government officials were halted with the announcement of the Parliamentary elections and the enforcement of the model code of conduct. Further, while the Committee had requested the State Governments for data on various parameters related to Scheduled Tribes in their States, a large number failed to submit this data. Further, the National Sample Survey Organisation (NSSO), Census of India, and the National Family Health Survey did not have data on some issues to be examined by the Committee as per the Terms of Reference, and where data existed, in some cases, disaggregated data was not available.

The Committee is mandated to prepare a position paper on the present socio-economic, health and educational status of STs, and is expected to suggest policy initiatives as well as effective outcome-oriented measures to improve development indices and strengthen public service delivery to the Scheduled Tribes. The TOR emphasizes an examination of the position of tribes vis-a-vis other social groups as well as at different levels such as the national, regional and district levels. The key issues and questions to be addressed are:

- geographical pattern of economic activity and the changes in avenues of employment and livelihood due to rapid urbanization and shrinking of their habitat; asset base and income levels and changes in the pattern of ownership and productivity of immovable assets coupled with the role of public policy and legal frameworks in facilitating/inhibiting such changes
- access to educational services, level of social infrastructure, level of literacy and dropout rates
- access to health services, level of social infrastructure, Maternal Mortality Rate and Infant Mortality Rate
- relative share of public and private employment, reasons for under-representation and capacity building steps to enhance employability

- adequate systems and structures for implementation of protective legislations
- consolidate, collate and analyse this information to identify areas of intervention in order to address the socio-economic, health and education status of tribes.

Whereas data are the foundation of this study, careful analysis and interpretation of data have been the most important and critical task of the Committee. It is on this basis that the Committee has tried to discern the effectiveness and limitations of relevant laws, policies, institutions and programmes and has made recommendations for addressing the tribal problem in India.

The Committee has prepared the report based on information obtained from various Ministries, Departments and Agencies of the Central and State Governments. Two major sources of information have been the office of the Registrar General of India and the National Sample Survey Organisation (NSSO). The Committee has surveyed the published books, research articles and reports on social, economic, health and educational status of Scheduled Tribes in India at different levels and on the working of Constitutional and legal provisions. The HLC as a team visited some Fifth, Sixth Schedule and non-Scheduled states and interacted with officials, Non-Governmental Organisations (NGOs) and community leaders to understand the problems existing in the States. Alongside, individual members undertook field visits and attended public hearings in several States to assess the ground-level reality. A large number of representations from individuals, NGOs and community organisations were submitted to the HLC, which have been examined and used in the report.

The report has been organized around five critical thematic issues: livelihood and employment, education, health, involuntary displacement and migration, and legal and constitutional matters. Of the five themes, three themes are concerned with issues that have been at the root of the post-colonial State's development agenda for tribes: livelihood and employment, education and health. Substantial resources have been allocated specifically for tribes in all these spheres, and special programmes and schemes have also been formulated to address problems on these fronts, beginning from the first phase of India's planned development. The concern with these issues still continues. The steady increase in resource allocation for these purposes and revamping of programmes and schemes has proceeded side by side. And yet the status of tribes in these spheres continues to be one of the critical gaps in India's road to development. The report examines the position of tribes in these spheres in three separate chapters. This also raises the question of institutions and systems for delivery

of public goods and services, which is the subject of the last chapter.¹ Although, tribes constitute a distinct social category and have special Constitutional and legal provisions, they have not been outside of India's larger economic and political framework. And the working of these larger institutional frameworks especially, the economic, legal and administrative, has adversely affected the tribal communities in India. As a part of the nation-building process, tribal areas have witnessed the large-scale development of industry, mining, infrastructure projects such as roads and railways, hydraulic projects such as dams and irrigation. These have been followed by processes of urbanization as well. The overall impact of these on tribes has been often loss of livelihood, massive displacement and involuntary migration. Issues pertaining to these mentioned problems have been critically examined in the report.

Another important issue analysed by the Committee is the working of legislations that have a bearing on tribal communities. It is not possible to make a detailed study of all of these laws and hence, only those that the HLC views as central to their socio-economic status have been addressed in the report. The Provisions of Panchayats (Extension to Scheduled Areas) Act (PESA), 1996 and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006, enacted to redress the historical injustice to tribal and forest communities, have been significant initiatives that have changed their legal status. However, policies and practices have been slow to absorb the changed circumstances recognised in the law. These legislations and their violations have been examined for future amendment. Subjects such as land acquisition, food security, detention and imprisonment, the status of Particularly Vulnerable Tribal Groups (PVTGs) and De-notified Tribes, have also been highlighted.

The above key substantive chapters in the report have been prefaced by two separate chapters –outlining the geographical and demographic profile of tribal communities in India and focusing on the workings of the legal and administrative framework provided for Scheduled Tribes in the Constitution.

As mentioned previously, the substantive issue of the socio-economic, educational and health status of tribal communities are an integral part of the development agenda that the State has been pursuing for its citizens. With respect to tribal development, there were two prominent colonial discourses which have continued into the post-colonial period.

In one of the discourses, the overall condition of tribal people, including their poverty, is attributed to their social and geographical isolation. Correspondingly, the whole thrust of the approach to tribal development in independent India was to be centred on

¹ Since the Committee had the advantage of the presence of the Secretary, MoTA, and it was evident that the Ministry needed to be strengthened so as to be able to carry out its task of protecting the tribal interest, the Secretary has contributed this chapter to the report. Such an exercise needs to be done with other agencies involved in protecting and promoting the tribal interest including the National Commission for Scheduled Tribes.

the integration of tribes into the larger Indian society. In fact, their integration was seen as the solution to tribal 'backwardness'. There was, however, also a dramatically contrasting explanation for their poverty. The main architect of this view was Verrier Elwin who attributed their deplorable and impoverished condition to their contact with the outside world, which had led to indebtedness and loss of control over their land and forests. The nationalist leadership recognized both of these dimensions and addressed them. The provisions enshrined for Scheduled Tribes in the Indian Constitution are a testimony to this dual approach. It provides for development as well as for safeguarding and protection of their interests.

However, it was development (of a particular kind) that became the primary thrust of the State's agenda, with minimal regard for protections and safeguards. What the State is actually pursuing in tribal areas – apart from Northeast India – is assimilation rather than integration, contrary to what is claimed. A policy of integration would provide space for protections and safeguards for their distinct identity, as enshrined in the Constitution. However, these provisions are precisely what are under threat of erosion through the process of cultural domination and more importantly, the prevailing development paradigm.

Moreover, the view that lack of development of the tribal population was caused by their isolation took precedence. This is often followed with the argument of inadequate resource allocation for tribal development. However, even with an increase in resource allocations since the Fifth Five Year Plan beginning in 1974, the condition of tribals has failed to improve proportionally. There is no doubt that isolation is an important constraint to development. However, to put the blame squarely on isolation is a gross distortion of the development problem of the tribal population.

Poor implementation of programmes is offered as another explanation for the issue of lack of social development among tribals. In this view, the solution lies in effective implementation of State-sponsored development programmes and schemes, whether these pertain to livelihood and income-generation activities, education, health, or communication facilities. However, the problem of ineffective implementation in tribal areas remains inadequately addressed.

The third set of arguments regarding poor development of the tribal populations is built around the issue of the traditional socio-cultural aspects of tribal life. If tribals suffer from low income, poor educational and health status and various kinds of diseases, this is because of their traditions and lifestyle. However, this may not be due as much to their social structure but to overall cultural and value framework of State-led development. The framework of development is alien to the tribes. For example, education in the regional language is usually familiar to the general population, including the Scheduled Castes, but this is not the case in the tribal context (although Scheduled Castes suffer from several other forms of discrimination). Hence, social

development processes may not operate as smoothly as in ‘mainstream’ society. Thus, there is a need to re-orient development in tune with the tribal culture and to adopt a more humane approach to tribal development.

However, one can probe the issue of tribal development beyond concerns of inadequate resource allocation, ineffective implementation or tribal traditions to engage with the larger question of national and regional development. The appropriation of tribal land and forests began during colonial rule and has continued to the present. Since tribal-inhabited regions are rich in mineral, forest and water resources, large-scale development projects invariably came to be located in tribal areas.

No region in India illustrates this better than the States of Jharkhand and Odisha, which have considerable natural resources, but also the highest percentages of tribal people living below the poverty line. In 2004–05, the proportion of tribal people living below poverty line stood at 54.2 per cent in Jharkhand while the percentage was as high as 75.6 per cent in Odisha in the same year. Overcoming tribal ‘isolation’ through large-scale mining, industrial and infrastructure projects, as these States have witnessed, has clearly not resolved the problem of poor development indicators. Rather, these have led to further impoverishment and vulnerability.

Over the last two decades, there has been a massive push to this development agenda, which has coincided with economic liberalisation and the entry of private corporations into tribal areas. This has been met with considerable resistance by tribal communities. This is often interpreted as evidence that tribes are ‘anti-development’, which is far from the truth. What tribes have been questioning is the *model* of development that is being imposed on them. Laws and rules that provide protection to tribes are being routinely manipulated and subverted to accommodate corporate interests. Tribal protests are being met with violence by the State’s paramilitary forces and the private security staff of corporations involved.

These dismal situations have paved the way for Left-Wing Extremism (LWE) in tribal areas. Of the nine States considered to be seriously affected by LWE, six are States with Scheduled districts. Among the 83 LWE-affected districts, 42 districts have Scheduled Areas. These regions are marked by the following features:(1) serious neglect and deprivation, widespread poverty and poor health and educational status;(2) exploitation and oppression by traders and money lenders, on the one hand, and absence of an effective and sensitive civil administration, on the other; (3) large-scale displacement of tribal people for development projects;(4) occurrence of all of the above despite the special Constitutional and legal provisions for the tribal people (in the form of the Fifth Schedule, laws to prevent alienation of tribal land and restoration of alienated lands, and in recent years, progressive legislations, such as PESA, 1996 and FRA, 2006).

Broadly, there are three perspectives through which LWE in the region is viewed. The first view sees it primarily as a national security problem to be addressed militarily. This approach will result in the further alienation of tribal communities, widen the trust deficit between the State and the people, and strengthen the Maoists. The country cannot afford to adopt this line of thinking. The second perspective notes the overlap between Maoist strongholds and tribal areas with dismal development indices and views more development as the only solution. The third, a combination of the above two, combines a military approach to secure the area with a focus on establishment of better public infrastructure.

However, there should be a fourth perspective based on the explicit recognition that there has been subversion of the law by both government and corporations in order to appropriate tribal resources, and that this situation needs to be rectified. It acknowledges that State failures and the trust deficit have facilitated the entry of the Maoists into these areas and helped them gain some support among the people, particularly Dalits and adivasis. A large section of people in tribal heartlands have lost faith in the ability of the law and the willingness of the administration to protect their interests. Any solution, therefore, should begin with confidence-building measures through the redress of past wrongs and the guarantee of justice. This is necessary in order to restore the trust of the tribals in the government.

To summarize, tribal communities face disregard for their values and culture, breach of protective legislations, serious material and social deprivation, and aggressive resource alienation. Hence, the solution to these issues should enable the tribals to protect their own interests. Below, we outline the perspective that forms the foundation of all the recommendations based in this report. We hope that the government will seriously consider the suggestions of the HLC and incorporate them in law, policy and practice. The report of the HLC is based on the perspective outlined below and we hope that the State's approach will be based on the same premises, namely that:

- An empowered citizenry and a functioning, participatory (including participation of women) self-governance is the best guarantee for a democratic nation;
- Due share in socio-economic progress for tribal people and their habitations, including facilities like health, education, livelihood, drinking water, sanitation, roads, electricity and sustainable income, in situ;
- Protecting the land and forest rights of tribal communities is equivalent to protecting their livelihoods, life and liberty. This remains one of the critical necessities of a welfare State. Therefore, laws protecting tribal land from alienation must be upheld at all costs;

- The right to natural resources in tribal lands has to be protected. They should only be accessed with the consent of the Gram Sabhas of the villages (both directly affected and in the zone of influence);
- While tribal lands hold much of the natural and mineral wealth of the nation, these resources cannot be alienated against their will. Moreover, communities who part with their lands have the right to share in the wealth and income so generated from its resources.
- Hence, a reasonable share of the wealth generated by the resources in their homelands must accrue to them by law, and
- The right to preservation of their language, culture and traditions, and to protect themselves against the loss of identity, must be recognized, protected, documented and allowed to thrive as a dynamic living culture.

3. Geographical and Demographic Profile

3.1 Introduction

Although the Census of 2011 enumerates the total population of Scheduled Tribes at 10,42,81,034 persons, constituting 8.6 per cent of the population of the country, the tribal communities in India are enormously diverse and heterogeneous. There are wide ranging diversities among them in respect of languages spoken, size of population and mode of livelihood. The number of communities that find their place in the list of the Schedule of the Indian constitution is reflective of this diversity. The Government of India, in its Draft National Tribal Policy, 2006 records 698 Scheduled Tribes in India. As per the Census of India 2011, the number of individual groups notified as Scheduled Tribes is 705. While it is not possible to provide detailed descriptions of the demographic features and socio-economic status of each of these tribal groups, this section attempts to map out the broad contours of the Scheduled Tribes of the country in terms of their demography and geography.

There are various ways in which the demography of Scheduled Tribes may be understood. Here, we have primarily presented data on tribal population and its geographical distribution across states and the different individual tribes, areas of concentration and populations. Further, we include available quantitative and qualitative data on the tribal population in relation to languages and livelihoods, density of forest cover and existence of mineral resources, and on-going conflicts.

The territories inhabited by tribes cross States and Union Territories in the country and several tribes are found residing across five to six states. There are also tribal groups whose populations are distributed across international boundaries such as tribes in Himachal Pradesh, Uttar Pradesh, West Bengal, Arunachal Pradesh, Sikkim, Nagaland, Manipur, Meghalaya and Mizoram which have fellow tribes people in China (including Tibet), Bhutan, Myanmar and Bangladesh. The Nagas, for instance, are divided among the states of Nagaland, Manipur, Assam, and Arunachal Pradesh as well as in the neighbouring country of Myanmar.

The tribes can be distinguished into five broad regional groupings based on ecological, social, economic, administrative, and ethnic factors (although there are many overlaps):

1. *Himalayan Region*: It has three sub-regions: (a) Northeastern Himalayan region, (b) Central Himalayan region, and (c) North-Western Himalayan region.

2. *Middle Region*: It is constituted by the States of Bihar, Jharkhand, West Bengal, Odisha and Madhya Pradesh (including Chhattisgarh), where more than 55 per cent tribal people of India live.

3. *Western Region*: It includes the States of Rajasthan, Gujarat, Maharashtra, Goa, Dadra and Nagar Haveli.

4. *Southern region*: It is comprised of the states of Andhra Pradesh, Tamil Nadu, Karnataka and Kerala.

5. *Island Region*: The Islands of Andaman and Nicobar in the Bay of Bengal and Lakshadweep in the Arabian Sea.

There are many differences between these regions as well as differences from tribe to tribe. For example, while the Northeast is often viewed as a singular and homogeneous entity, the region is highly diverse with over 200 tribes and sub-tribes, each of which have their own language, culture and political structures. Further, the tribes of the Northeast differ from tribes in other parts of India, particularly in terms of their historical relationship with the colonial and Indian State. The tribes of the Andaman and Nicobar Islands, comprising 556 islands of which only a few are populated, are also distinct. The Islands are administered as a Union Territory under the Central Government and are home to some of the smallest tribes such as the Great Andamanese, Onge, Jarawa and the Sentinelese.

The tribes can also be differentiated on the basis of population size since communities like Gonds, Bhils, Santhals, Oraons, Minas, Mundas and so on have a population that ranges from one million to a little over seven million people. As against this, there are communities like the Andamanese Islanders and tribal groups such as the Birjia and Asur in Bihar and the Birhor of Madhya Pradesh who have a population of less than 200 persons.

The languages of India fall into four different linguistic families. These are Indo-European, Dravidian, Austro-Asiatic and the Tibeto-Burman sub-family of the Sino-Tibetan languages. Approximately three-fourths of the country speaks languages belonging to Indo-European family. However, only a little over one per cent of tribal population speak languages of this family, the Bhil and Halbi tribes being the two main groups among them. Languages belonging to Dravidian family are spoken by tribes such as the Gond, Khond, Koya, Oraon, and Toda. Tibeto-Burman languages are spoken by the tribes of the Himalayas and Northeast India. The Austro-Asiatic family of languages is spoken only by tribals in the country like the Santhal, Munda, and Ho.

Scheduled Tribes communities live in about 15% of the country's area, in various ecological and geo-climatic conditions ranging from plains and forests to hills. A large proportion of Scheduled Tribes are collectors of forest produce, hunter-gatherers, shifting cultivators, pastoralists and nomadic herders, and artisans. Traditional occupations of tribal groups may range from honey-collection to hunting small animals to engaging in metal-work and rope-making.

A majority of tribal groups work in the primary sector, and are heavily dependent on agriculture either as cultivators or as agricultural labourers. At the same time, a number of Scheduled Tribes no longer follow their traditional occupations and work as labourers on plantations or in mines and factories (in many cases, since the nineteenth-century). Displacement and enforced migration has also led to an increasing number of Scheduled Tribes working as contract labourers in the construction industry and as domestic workers in major cities. Over 80% of Scheduled Tribes work in the primary sector against 53% of the general population, primarily as cultivators. However, the number of STs who were cultivators, declined from over 68% to 45% in 2001 whereas the number of tribal agricultural labourers increased from about 20% to 37%, demonstrating increasing landlessness among tribals. This trend has intensified, as can be seen in data from the 2011 Census. It is further estimated that, in the last decade, about 3.5 million tribal people are leaving agriculture and agriculture-related activities to enter the informal labour market.

Scheduled Tribes comprise 11.3 per cent of the Indian rural population and 2.8 per cent of the Indian urban population. In 2001, the proportion of STs to the total population was 8.2 per cent, while the proportion was 10.4 per cent in rural areas and 2.4 per cent in urban areas. The total male ST population according to the 2011 census is 5,24,09,823 of which 4,71,26,341 are residing in rural areas and 52,83,482 are in urban areas. The total female ST population is 5,18,71,211 with 4,66,92,821 in rural areas and 51,78,390 in urban areas. The sex ratio among the Scheduled Tribes is 991 females to every 1000 males in rural areas and 980 females to every 1000 males in urban areas, the average being 990.

3.2 Population of Scheduled Tribes across States

The following table segregates data on proportion of STs in the population of each State thus depicting the States with the largest proportion of Scheduled Tribes (though not the largest in terms of actual population) as well as the States with the lowest proportion of STs (not including states/Union Territories with no recognised ST population).

The Himalayan Region comprises 2.03 per cent of STs in the States of Jammu and Kashmir, Himachal Pradesh, Uttarakhand and Uttar Pradesh; the Northeastern region has 12.41 per cent of STs in Sikkim, Arunachal Pradesh, Nagaland, Manipur,

Mizoram, Tripura, Meghalaya and Assam; the Central-east Indian region has the largest proportion of STs, about 52.51 per cent in Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Odisha and West Bengal; the Western region of Rajasthan, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra and Goa has 27.64 per cent of STs; the Southern region has 5.31 per cent of STs in the states of Karnataka, Kerala and Tamil Nadu; and finally, 0.11 per cent of STs live in the island region of Andaman and Nicobar Islands and Lakshadweep.

Table 3.1: Total population of STs and proportion of STs in each state to the total state and national population

S. No.	Name of the State/UT	Total Population	ST Population	% of STs in the State to total State population	% of STs in the State to total ST population in India
00	India	1210569573	104281034	8.61	--
1	Andaman & Nicobar Islands	380581	28530	7.49	0.02
2	Andhra Pradesh	84580777	5918073	6.99	5.67
3	Arunachal Pradesh	1383727	951821	68.78	0.91
4	Assam	31205576	3884371	12.44	3.72
5	Bihar	104099452	1336573	1.28	1.28
6	Chandigarh	1055450	0	--	--
7	Chhattisgarh	25545198	7822902	30.62	7.50
8	D & N Haveli	343709	178564	51.95	0.17
9	Daman & Diu	243247	15363	6.31	0.01
10	Goa	1458545	149275	10.23	0.14
11	Gujarat	60439692	8917174	14.75	8.55
12	Haryana	25351462	0	--	--
13	Himachal Pradesh	6864602	392126	5.71	0.37
14	Jammu & Kashmir	12541302	1493299	11.90	1.43
15	Jharkhand	32988134	8645042	26.20	8.29
16	Karnataka	61095297	4248987	6.95	4.07
17	Kerala	33406061	484839	1.45	0.46
18	Lakshadweep	64473	61120	94.79	0.05
19	Madhya Pradesh	72626809	15316784	21.08	14.68
20	Maharashtra	112374333	10510213	9.35	10.07
21	Manipur	2570390	902740	35.12	0.86
22	Meghalaya	2966889	2555861	86.14	2.45
23	Mizoram	1097206	1036115	94.43	0.99
24	Nagaland	1978502	1710973	86.47	1.64
25	NCT of Delhi	16787941	0	--	--
26	Odisha	41974218	9590756	22.84	9.19
27	Puducherry	1247953	0	--	--
28	Punjab	27743338	0	--	--
29	Rajasthan	68548437	9238534	13.47	8.85
30	Sikkim	610577	206360	33.79	0.19
31	Tamil Nadu	72147030	794697	1.10	0.76
32	Tripura	3673917	1166813	31.75	1.11
33	Uttar Pradesh	199812341	1134273	0.56	1.08
34	Uttarakhand	10086292	291903	2.89	0.27
35	West Bengal	91276115	5296953	5.80	5.07

Source: Census of India, 2011. (Note: Excluding 3 Sub-divisions of Senapati District of Manipur)

Among the States and Union Territories, Lakshadweep ranks top with the highest proportion of ST population (within the state) of 94.8%, followed by Mizoram (94.4%), Nagaland (86.5%), Meghalaya (86.1%), and Arunachal Pradesh (68.8%). Uttar Pradesh stands last with the lowest proportion of ST population of 0.56%, followed by Tamil Nadu (1.1%), Bihar (1.28%), Kerala (1.45%), and Uttarakhand (2.89%).

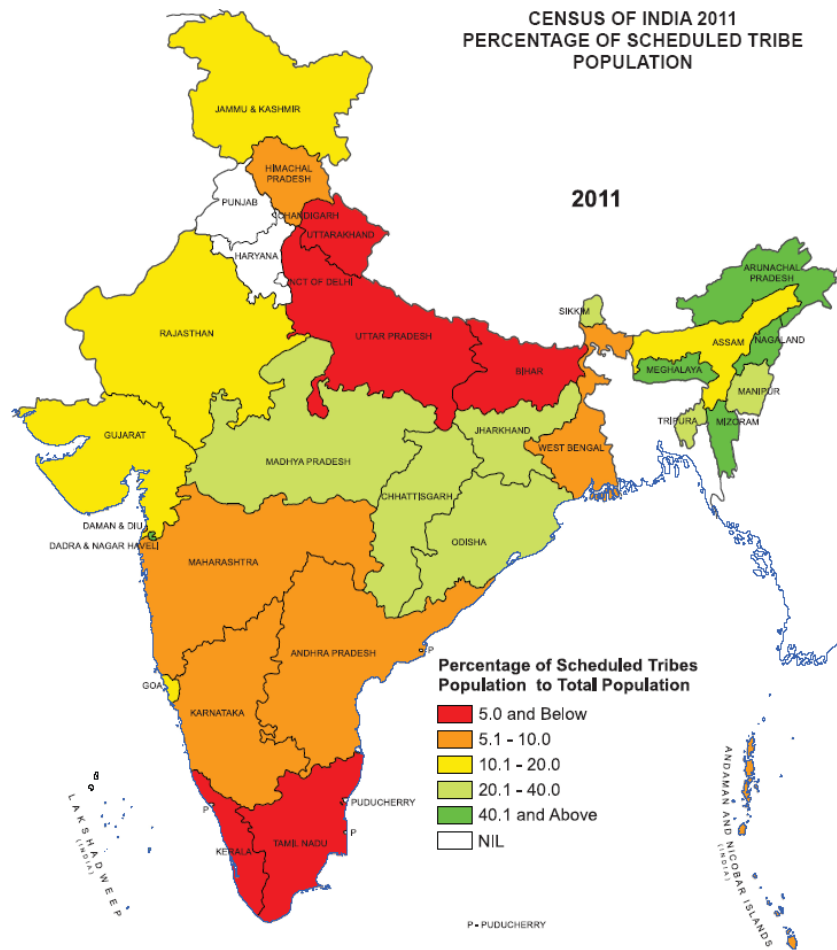
Table 3.2: States with highest and lowest proportion of Scheduled Tribes

Top 5 States/Union Territories		Bottom 5 States/Union Territories	
Lakshadweep	94.8%	Uttar Pradesh	0.56%
Mizoram	94.4%	Tamil Nadu	1.1%
Nagaland	86.5%	Bihar	1.28%
Meghalaya	86.1%	Kerala	1.45%
Arunachal Pradesh	68.8%	Uttarakhand	2.89%

Source: Census of India, 2011.

The map below pictorially depicts these figures to indicate the States more than 40 per cent tribal population, with between twenty and forty per cent, between ten and twenty per cent, five and ten per cent, and below five per cent. The States of the Northeast are clearly the states with a very large tribal population relative to the total population while significant tribal populations are also residing in the Central states of Madhya Pradesh, Chhattisgarh, Jharkhand and Odisha. The lowest proportion of tribals in the State population is found in the Southern states of Kerala and Tamil Nadu and the Northern states of Uttarakhand, Uttar Pradesh, New Delhi and Bihar.

Percentage of ST population to total state population



Regarding the distribution of ST population by States, Madhya Pradesh stands first with 14.7%, followed by Maharashtra (10.1%), Odisha (9.2%), Rajasthan (8.9%), Gujarat (8.6%), Jharkhand (8.3%), Chhattisgarh (7.5%), Andhra Pradesh (5.7%), West Bengal (5.1%), Karnataka (4.1%), Assam (3.7%), Meghalaya (2.5%), and the remaining States represent 11.6% of the tribal population. Proportion of ST population in the rural areas is 11.3% and in urban areas is 2.8%. More than half the Scheduled Tribe population is concentrated in the States of Madhya Pradesh, Chhattisgarh, Maharashtra, Odisha, Jharkhand and Gujarat.

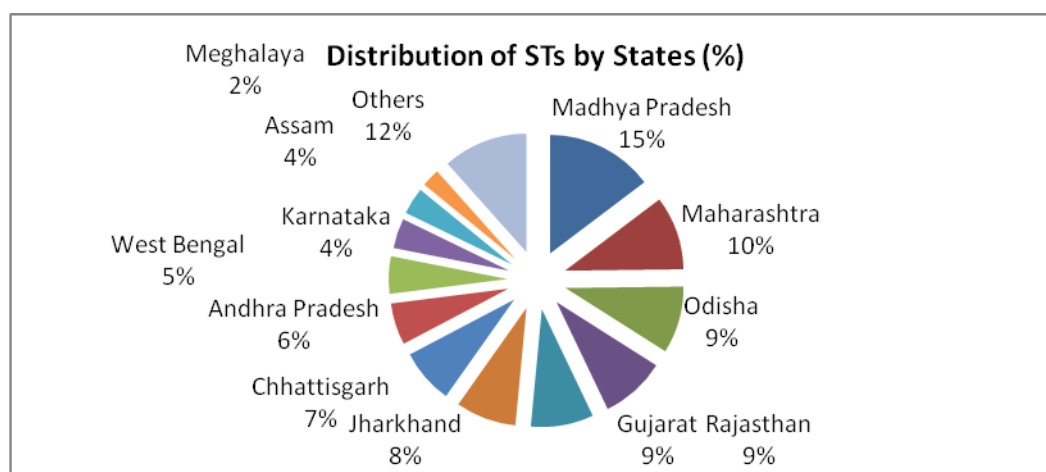
The table below shows us the distribution of the ST population in the various States of India, with Madhya Pradesh having the largest percentage share of the ST population. Other States with a significant proportion of the all-Indian ST population are Maharashtra, Odisha, Rajasthan, Gujarat and Jharkhand – all having between 8 and 10 per cent share. Interestingly, Karnataka and West Bengal, neither of which have any Scheduled Areas within its State boundaries have 4.1 per cent and 5.1 per cent of the country's ST population. The 'others' of the ST population – 11.6 per cent – are located across the county, notably in the other states of the Northeast, in the South

Indian States of Kerala and Tamil Nadu which have small ST populations as well as the Northern States of Jammu and Kashmir, Himachal Pradesh and Uttarakhand.

Table 3.3: Distribution of ST population by State

S.No.	State	% of national ST population		S.No.	State	% of national ST population
1	Madhya Pradesh	14.7		8	Andhra Pradesh	5.7
2	Maharashtra	10.1		9	West Bengal	5.1
3	Odisha	9.2		10	Karnataka	4.1
4	Rajasthan	8.9		11	Assam	3.7
5	Gujarat	8.6		12	Meghalaya	2.5
6	Jharkhand	8.3		13	Others	11.6
7	Chhattisgarh	7.5				

Figure 3.1: State-wise distribution of STs (as per the 2011 census)



While the tables above indicate the distribution of the ST population according to the most recent census, it is valuable to examine the decadal growth (or decline) rate of the ST populations in each of these States as well as the changing proportion of STs within the total population of the State. While these figures do not transparently yield any definitive trends, they do point toward issues of migration of ST population outside the State, increasing influx of non-tribals into the State, recognition of more tribal groups by the State and so on.

The decadal growth of Scheduled Tribes is better than the growth rate of the general population between 1991 and 2001, and 2001 and 2011. Between 1991 and 2001, while the decadal growth rate of the general population was recorded at 22.66, the Scheduled Tribe growth rate was 24.45. Similarly, between 2001 and 2011, when the general population growth rate was 17.64, the growth rate of Scheduled Tribe population in the corresponding period was 23.66. On the whole, the ST population within the total population of India has increased from 8.2 per cent in 2001 to 8.6 per

cent in 2011. In many States, the STs as a proportion of the population have remained fairly constant between the 2001 and 2011 censuses. However, States/Union Territories such as Andaman and Nicobar Islands, Chhattisgarh, Daman and Diu and Nagaland have recorded small decreases in the relative proportion of STs in the population between 2001 and 2011 (up to about three per cent decrease in Nagaland). The most significant decrease in proportion is in Dadra and Nagar Haveli, which has recorded a decrease of about ten per cent over the decade. Other states have recorded small increases which may be due to population growth as well as State recognition of greater number of tribes. Significant increases in proportion can be noted in Sikkim (about 13 per cent) and Arunachal Pradesh (about four per cent).

Table 3.4: State-wise ST population and decadal growth rate

State/UT	ST Population			Decadal Growth Rate among STs		Decadal Growth Rate among Total Population		% of STs in the State to total State population	
	1991	2001	2011	1991-2001	2001-2011	1991-2001	2001-2011	2001	2011
India	67,758,380	84,326,240	104281034	24.45	23.66	22.66	17.64	8.20	8.61
Andaman & Nicobar Islands	26,770	29,469	28,530	10.08	-3.2	26.90	6.86	8.27	7.5
Andhra Pradesh	4,199,481	5,024,104	5,918,073	19.64	17.8	14.59	10.98	6.59	7.0
Arunachal Pradesh	550,351	705,158	951,821	28.13	35	27.00	26.03	64.22	68.8
Assam	2,874,441	3,308,570	3,884,371	15.10	17.4	18.92	17.07	12.41	12.4
Bihar	6,616,914	758,351	1,336,573	-	76.2	-	25.42	0.91	1.28
Chandigarh	NST	NST	NST	NST	NST	40.28	17.19	NST	--
Chhattisgarh	--	6,616,596	7,822,902	-	18.2	-	22.61	31.76	30.6
Dadra & Nagar Haveli	109,380	137,225	178,564	25.46	30.1	59.22	55.88	62.24	52.0
Daman & Diu	11,724	13,997	15,363	19.39	9.8	55.73	53.76	8.85	6.31
Goa	376	566	149,275	50.53	-	15.21	8.23	0.04	10.23
Gujarat	6,161,775	7,481,160	8,917,174	21.41	19.2	22.66	19.28	14.76	14.8
Himachal Pradesh	218,349	244,587	392,126	12.02	60.3	17.54	12.94	4.02	5.71
Jammu & Kashmir	--	1,105,979	1,493,299	-	35	-	23.64	10.90	11.90
Jharkhand	--	7,087,068	8,645,042	-	22	-	22.42	26.30	26.2
Karnataka	1,915,691	3,463,986	4,248,987	80.82	22.7	17.51	15.60	6.55	6.95
Kerala	320,967	364,189	484,839	13.47	33.1	9.43	4.91	1.14	1.45
Lakshadweep	48,163	57,321	61,120	19.01	6.6	17.30	6.30	94.51	94.8
Madhya Pradesh	15,399,034	12,233,474	15,316,784	-	25.2	-	20.35	20.27	21.1
Maharashtra	7,318,281	8,577,276	10,510,213	17.20	22.5	22.73	15.99	8.85	9.4
Manipur	632,173	741,141	902,740	17.24	21.8	17.94	12.05	34.20	35.1

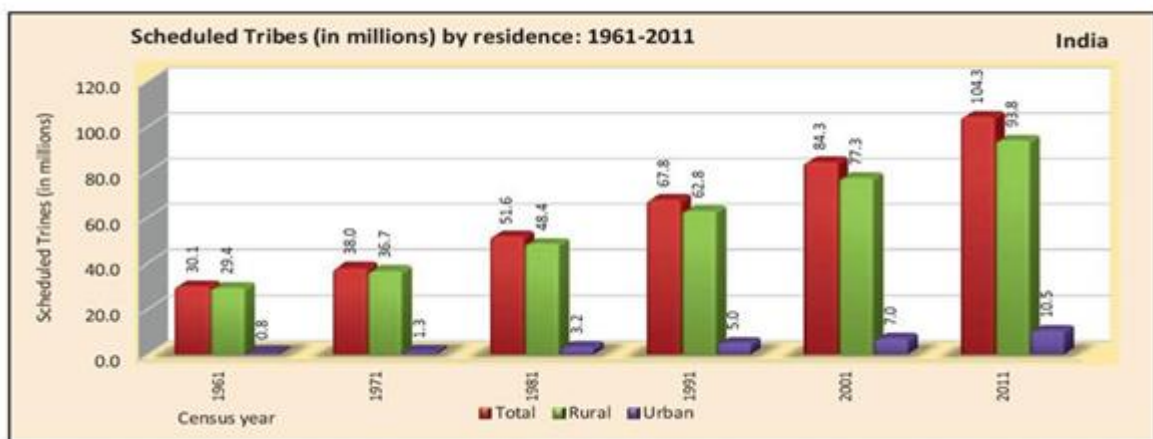
Meghalaya	1,517,927	1,992,862	2,555,861	31.29	28.3	30.65	27.95	85.94	86.1
Mizoram	653,565	839,310	1,036,115	28.42	23.4	28.82	23.48	94.46	94.4
Nagaland	1,060,822	1,774,026	1,710,973	67.23	-3.6	64.53	-0.58	89.15	86.5
Odisha	7,032,214	8,145,081	9,590,756	15.83	17.7	16.25	14.05	22.13	22.8
Rajasthan	5,474,881	7,097,706	9,238,534	29.64	30.2	28.41	21.31	12.56	13.5
Sikkim	90,901	111,405	206,360	22.56	85.2	33.06	12.89	20.60	33.8
Tamil Nadu	574,194	651,321	794,697	13.43	22	11.72	15.61	1.04	1.1
Tripura	853,345	993,426	1,166,813	16.42	17.5	16.03	14.84	31.05	31.8
Uttar Pradesh	2,87,901	107,963	1,134,273	-	950.6	19.47	20.23	0.06	0.56
Uttarakhand	--	256,129	291,903	-	14	-	18.81	3.02	2.89
West Bengal	3,808,760	4,406,794	5,296,953	15.70	20.2	17.77	13.84	5.50	5.8

Source: Census of India, 2001 and 2011.

From the following figure, it is evident that the population of Scheduled Tribes is increasing from 30 million in the year 1961 to over a 100 million in the year 2011. This is reflected in increasing ST population in both rural and urban areas.

Figure 3.2: Decadal change in ST population (total, rural and urban)

Scheduled Tribe population and decadal change by residence : PERSONS



The following table disaggregates the data by presenting the proportion of STs in the rural and the urban population of each State. Further, the table shows the changing proportions in the rural and urban populations between 2001 and 2011, pointing to processes of migration of tribals to urban areas as well as increasing urbanisation of hitherto rural tribal areas. Several States display an increase in the proportion of STs in rural areas (which could be due to population growth among STs, migration of non-tribals from rural to urban areas and so on). Almost across the board, however, there appears to be an increase of STs in urban areas which is indicative of population

growth and increased migration of STs to urban areas (in search of employment opportunities, possibly as a result of loss of livelihood in rural areas).

Table 3.5: State-wise percentage of Scheduled Tribes to total population (rural and urban) and decadal growth-rate (2001-2011)

State	Total (2001)	Rural	Urban	Total (2011)	Rural	Urban
Jammu & Kashmir	10.9	13.8	2	11.9	15.4	2.5
Himachal Pradesh	4	4.3	1.3	5.7	6.1	2.6
Punjab	No STs	-	-	No STs	-	-
Chandigarh	No STs	-	-	No STs	-	-
Uttarakhand	3	3.8	0.7	2.9	3.8	0.9
Rajasthan	12.6	15.5	2.9	13.5	16.9	3.2
Uttar Pradesh	0.1	0.1	0	0.6	0.7	0.2
Bihar	0.9	1	0.5	1.3	1.4	0.6
Sikkim	20.6	21.2	15.9	33.8	36.6	25.5
Arunachal Pradesh	64.2	69.7	43.4	68.8	74.1	51
Nagaland	89.1	93.7	67.1	86.5	92.8	70.8
Manipur	34.2	44.4	6.1	35.1	45.6	16.4
Mizoram	94.5	96.3	92.6	94.4	96.6	92.5
Tripura	31.1	36.5	4.7	31.8	41.2	5.1
Meghalaya	85.9	90.2	68.3	86.1	90.1	70.4
Assam	12.4	13.6	4.5	12.4	13.7	5
West Bengal	5.5	7.2	1.2	5.8	7.8	1.5
Jharkhand	26.3	31	9.8	26.2	31.4	9.8
Odisha	22.1	24.6	8.1	22.8	25.7	8.5
Chhattisgarh	31.8	37.6	8.4	30.6	36.9	10
Madhya Pradesh	20.3	25.8	4.9	21.1	27.2	5.2
Gujarat	14.8	21.6	3.2	14.8	23.1	3.5
Daman & Diu		11.1	4.9	6.3	12.6	4.2
Dadra & Nagar Haveli	62.2	74.9	19.4	52	82.4	17.2
Maharashtra	8.9	13.4	2.7	9.4	14.6	3
Andhra Pradesh	6.6	8.4	1.8	7	9.3	2.4
Karnataka	6.6	8.4	2.9	7	9.2	3.5
Goa	0	0	0.1	10.2	15.9	6.8
Lakshadweep	94.5	95.6	93.1	94.8	95.2	94.7
Kerala	1.1	1.5	0.2	1.5	2.5	0.3
Tamil Nadu	1	1.6	0.4	1.1	1.8	0.4
Andaman & Nicobar Islands	8.3	11.9	0.9	7.5	11.3	1.3

Source: Census of India, 2001 and 2011.

3.3 Number of Scheduled Tribes

Having gained a picture of the total tribal populations in each State of the country, the table below indicates the total number of tribal communities in the different States. As can be seen from the table, among the States, Odisha has the largest number of notified STs (62) followed by Karnataka (50), Maharashtra (45), Madhya Pradesh (43) and Chhattisgarh (42). Sikkim has the least with four tribes followed by

Nagaland, Daman and Diu and Uttarakhand with five each. Among the South Indian States (without any Scheduled Areas), Karnataka has the largest number of Scheduled Tribes (50) followed by Tamil Nadu (36) and Kerala (36).

Table 3.6: State-wise Number of Scheduled Tribes

S.No.	State/UT	No. of Tribes	S.No.	State/UT	No. of Tribes
1	Andhra Pradesh	25	16	Meghalaya	17
2	Arunachal Pradesh	16	17	Mizoram	15
3	Assam	29	18	Nagaland	05
4	Bihar	33	19	Odisha	62
5	Chhattisgarh	42	20	Rajasthan	12
6	Goa	08	21	Sikkim	04
7	Gujarat	29	22	Tamil Nadu	36
8	Himachal Pradesh	10	23	Tripura	19
9	Jammu & Kashmir	12	24	Uttarakhand	05
10	Jharkhand	32	25	Uttar Pradesh	15
11	Karnataka	50	26	West Bengal	40
12	Kerala	36	27	Andaman & Nicobar Islands	06
13	Madhya Pradesh	43	28	Dadra and Nagar Haveli	07
14	Maharashtra	45	29	Daman and Diu	05
15	Manipur	34	30	Lakshadweep	01
				Total	693

Source: <http://tribal.nic.in/Content/scheduledtribes.aspx>
http://censusindia.gov.in/Tables_Published/SCST/dh_st_Lakshadweep.pdf

3.4 District-level data on Scheduled Tribe population

There are 90 districts in India, where the tribal population is more than 50% of the total population (See Annexure 2 for names of all 90 districts). Similarly, in 62 districts, the tribal population is more than 25%, but less than 50% of the total population (See Annexure 2 for names of all 62 districts). The following tables demonstrate the State-wise number of districts with more than 50 per cent ST population and with between 25 and 50 per cent ST population, and state-wise total number of districts with more than 25 per cent ST population. While this gives a broad picture of the areas of tribal concentrations within the various States, it should be noted that these figures do not cover the entire ST population since there may be less than 25 per cent or less than 50 per cent ST population at the district level but more than this proportion at the block or village-level (which may be listed as Scheduled Areas as well).

Table 3.7: State-wise no. of districts with ST Population more than 50% and between 25 and 50%

S. No.	State	Districts with above 50%	S. No.	State	Districts with 25-50%
1	Arunachal Pradesh	13	1	Madhya Pradesh	13
2	Nagaland	11	2	Chhattisgarh	8
3	Mizoram	8	3	Jharkhand	6
4	Odisha	8	4	Odisha	6
5	Chhattisgarh	7	5	Assam	5
6	Meghalaya	7	6	Gujarat	4
7	Madhya Pradesh	6	7	Arunachal Pradesh	3
8	Gujarat	5	8	Jammu & Kashmir	3
9	Jharkhand	5	9	Maharashtra	3
10	Manipur	5	10	Rajasthan	3
11	Rajasthan	3	11	Sikkim	3
12	Assam	2	12	Tripura	3
13	Himachal Pradesh	2	13	Andhra Pradesh	1
14	Jammu & Kashmir	2	14	Himachal Pradesh	1
15	Andaman & Nicobar Islands	1		Total	62
16	Dadra & Nagar Haveli	1			
17	Lakshadweep	1			
18	Maharashtra	1			
19	Sikkim	1			
20	Tripura	1			
	Total	90			

Source: Census of India, 2011.

Table 3.8: State-wise total no. of districts with ST Population above 25%

S. No.	State	Total districts with above 25% of ST population
1	Madhya Pradesh	19
2	Arunachal Pradesh	16
3	Chhattisgarh	15
4	Odisha	14
5	Nagaland	11
6	Jharkhand	11
7	Gujarat	9
8	Mizoram	8
9	Meghalaya	7
10	Assam	7
11	Rajasthan	6
12	Manipur	5
13	Jammu & Kashmir	5
14	Maharashtra	4
15	Sikkim	4
16	Tripura	4
17	Himachal Pradesh	3
18	Andaman & Nicobar Islands	1
19	Dadra & Nagar Haveli	1
20	Lakshadweep	1
21	Andhra Pradesh	1
	Total	152

Source: Census of India, 2011.

The table below goes beyond data on tribal-majority districts in the country to demonstrate the total spread of Scheduled Tribes across India. While the preceding tables focused on districts with substantial tribal populations (at least more than 25 per cent), the following table shows the total number of districts in which Scheduled Tribes reside, even those districts in which they may constitute a minority (less than one per cent). Thus, Scheduled Tribes reside in as many as 543 districts in India. It is also pertinent to note that these figures indicate proportion of Scheduled Tribes in the total district population which does not reveal much about the actual size of the Scheduled Tribe population in the district. In large and populous districts, even one per cent tribal population could indicate a large number of people.

Table 3.9: Concentration of ST population across districts

Percentage of ST population	Number of districts
1. Less than 1 per cent	173
2. Between 1 and 5 per cent	106
3. Between 5 and 20 per cent	124
4. Between 20 and 35 per cent	42
5. Between 35 and 50 per cent	23
6. Above 50 per cent	75
Total	543

Source: Report of Task Force on Tribals, Planning Commission, 2004-05.

3.5. Populous and ‘Vulnerable’ Tribes

Many of the large tribal groups have several sub-tribes and are called by various (though usually similar) nomenclatures in different parts of the country since they are often several over a large area often crossing the administrative boundaries of States. This situation has caused considerable confusion and anomalies in classification of tribes due to misspelling of names or non-recognition of synonyms used to refer to various tribes and sub-tribes. A significant number of the modifications in the list of Scheduled Tribes seek to address these anomalies, although there are also some cases of addition of a new tribe or sub-tribe to the list. The table below indicates the number of modifications made in the list of Scheduled Tribes since the 2001 Census. The figures are organised according to the States with reference to which the change was made (since the ST list is made State-wise and is not a pan-Indian catalogue). As can be seen from the table below, the largest number of modifications is in relation to addition of a synonym or sub-group within an existing entry (of a tribe).

Table 3.10: Modifications made in the list of Scheduled Tribes since the 2001 census

State/UT	Total number of modifications	Addition as synonym/sub-group in the existing entry	Addition as Main Entry/Main Entry with synonym/sub-group	Transfer from SC list	Deletion	Area restriction omitted	Area restriction imposed/redefined	Substitution	Modification of earlier entry
Andhra Pradesh	31	25	2	-	2	-	2	1	-
Arunachal Pradesh	7	2	4	-	-	-	-	1	-
Assam	7	-	6	-	-	-	-	1	-
Bihar	12	9	3						
Goa	3	-	3						
Gujarat	8	2	3	-	3				
Himachal Pradesh	4	-	2	-	-	2			
Jharkhand	11	9	2						
Karnataka	5	4	1						
Kerala	31	17	6	2	5	-	1		
Madhya Pradesh	3	-	-	-	3				
Maharashtra	3	-	-	-	2	-	-	-	1
Manipur	5	-	4	-	-	-	-	-	-
Mizoram	1	-	1						
Odisha	115	115							
Sikkim	2	-	2						
Tamil Nadu	1								
Tripura	11	11							
Uttar Pradesh	10	-	-	10					
West Bengal	10	-	10						
Total	272	194	41	12	15	2	3	3	1

Source: Ministry of Tribal Affairs, Government of India, 2011.

As per the 2001 census, the tribe with the largest population is the Bhil (12689952) followed by the Gond (10859422), the Santal (5838016) and the Mina (3800002). Most of the large tribes have populations spread across several States and in some cases, over the entire breadth of the country. Many of these tribes have been integrated into the larger political economy for centuries and some of them have benefitted from State policies to a relatively greater extent as compared to smaller tribal groups.

Table 3.11: Fifteen most populous tribes in India

Name of Tribe	Population	States in which members are residing
Bhil	12689952	Tripura, Andhra Pradesh, Rajasthan, Chhattisgarh, Andhra Pradesh, Gujarat, Maharashtra, Karnataka
Gond	10859422	Bihar, West Bengal, Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh, Gujarat, Andhra Pradesh, Karnataka
Santhal	5838016	Bihar, Tripura, West Bengal, Odisha, Jharkhand
Mina	3800002	Rajasthan, Madhya Pradesh
Naikda	3344954	Karnataka, Rajasthan, Gujarat, Daman & Diu, Dadra & Nagar Haveli, Maharashtra, Goa
Oraon	3142145	Bihar, West Bengal, Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh, Maharashtra
Sugalis	2077947	Andhra Pradesh
Munda	1918218	Bihar, West Bengal, Jharkhand, Chhattisgarh, Madhya Pradesh, Tripura, Odisha
Nagas	1820965	Nagaland
Khond	1397384	Bihar, West Bengal, Jharkhand, Odisha
Boro	1352771	Assam
Koli Mahadev	1227562	Maharashtra
Khasi	1138356	Mizoram, Meghalaya, Assam
Kol	991400	Odisha, Chhattisgarh, Madhya Pradesh, Maharashtra
Varli	974916	Gujarat, Daman & Diu, Dadra & Nagar Haveli, Maharashtra, Karnataka, Goa

Source: Census of India, 2001.

The table below provides a register of the Particularly Vulnerable Tribal Groups (PVTGs) with population of less than a 1000 persons. One of the criteria for their vulnerability is their small population– the population size of the smallest group reaches a low of only 17 persons in the case of the Birjia in the state of Bihar.

Table 3.12: PVTGs with a population of less than 1000 persons

PVTG	Population
Birjia (Bihar)	17
Sentinelese	39
Great Andamanese	43
Onge	96
Birhor (Madhya Pradesh)	143
Asur (Bihar)	181
Mankidias (Odisha)	205
Jarawa	240
Cholanaicken (Kerala)	326
Shompen	398
Birhor (Bihar)	406
Savar (Bihar)	420
Raji (Uttarakhand)	517
Sauria Paharia (Bihar)	585
Birhor (Odisha)	702
Korwa (Bihar)	703
Todas (Tamil Nadu)	875
Kota (Tamil Nadu)	925
Raji (Uttar Pradesh)	998

Source: Census of India, 2001.

3.6 Forests, Dams and Mines

According to the Forest Survey of India,² 2011, the total forest cover in the country is 692, 027 sq. km. which comprises 21.05 per cent of the total geographical area of the country. The total forest cover in the 188 tribal districts in 26 states and Union Territories in the country identified as falling under the Integrated Tribal Development Programme (ITDP) is about 411, 881 sq. km, which constitutes 37.25 per cent of the geographical area in these districts. Therefore, almost 60 per cent of the forest cover of the country is found in tribal areas. The States with the largest forest cover in terms of absolute area are also States with substantial tribal populations – Madhya Pradesh (77, 700 sq. km), Arunachal Pradesh (67, 410 sq. km.), Chhattisgarh (55, 674 sq. km), Maharashtra (50, 646 sq. km) and Odisha (48, 903 sq. km.). In terms of proportion of forest cover in relation to the geographical area of the State, the Island regions and the Northeastern states are highest – led by Mizoram (90.6 per cent), followed by Lakshadweep (84.56 per cent), Andaman and Nicobar Islands (81.51 per cent, Arunachal Pradesh (80.50 per cent), Nagaland with (80.33 per cent), Meghalaya (77.02 per cent) and Tripura (76.07 per cent).

Of the 58 districts, wherein the forest cover is greater than 67 per cent, 51 districts are tribal districts.³ Therefore, a large section of the tribal population have been dependent on the forest for their livelihood. However, much of this forest was classified as Reserved Forests and Protected Forests as well as Wildlife Sanctuaries and National Parks, resulting in the marginalisation of tribal communities who were treated as encroachers on this land prior to the passing of the Forest Rights Act, 2006.

With regard to mineral resources, three States with substantial tribal populations – Odisha, Chhattisgarh and Jharkhand - have considerable mineral reserves. These three States alone account for 70 per cent of India's coal reserves, 80 per cent of its high-grade iron ore, 60 per cent of its bauxite and almost 100 per cent of its chromite reserves.⁴ Indeed, according to the Centre for Science and Environment, about half of the top mineral-producing districts are tribal districts – and these are also districts with forest cover of 28 per cent which is larger than the national average of 20.9 per cent. Unfortunately, much of this forest land has been diverted for mining purposes resulting in environmental degradation, loss of livelihood, and displacement of tribal communities. Many of these mineral-bearing areas are also affected by the on-going conflict between the Maoists and the State .

Dams have been another source of displacement for tribes since Independence, with India being one of the largest dam-building nations in the world. It is estimated that dams are the biggest causes of displacement in the country, although actual figures regarding the number of people displaced range from 20 to 50 million. However, it is generally agreed that about 40 per cent of those displaced belong to the Scheduled

² *India State of Forest Report, Forest Survey of India, 2011.*

³ *Draft National Tribal Policy, Ministry of Tribal Affairs, Government of India, 2006.*

⁴ *Centre for Science and Environment, Rich Lands, Poor People: Is 'Sustainable Mining' Possible? 2008.*

Tribes. Given that the Scheduled Tribes constitute about eight per cent of the country's population, they are clearly disproportionately represented in the number of displaced persons.

3.7 Conflicts affecting tribal populations

Numerous armed conflicts affect large parts of tribal areas in contemporary India spanning the central region to the Northeast. In central India, the most well-known conflict at present is the armed conflict between the Communist Party of India (Maoist) and the Indian state, which is ongoing in parts of the states of Maharashtra, Andhra Pradesh, Madhya Pradesh, Chhattisgarh, Jharkhand, Bihar, Odisha and West Bengal, among others. A large portion of these areas are tribal-dominated and it is tribal civilians, who have been worst affected by the conflict. The conflict has only escalated in recent years, particularly in central India, following the initiation by the state of a counter-insurgency operation known as the Salwa Judum in Chhattisgarh which has been responsible for rapes, murders, arson, looting and intimidation in the name of defeating the Maoists.

Violent conflicts plague large parts of the Northeast and this has been so since 1947. Across the region, there are conflicts between the State and tribal groups, between different tribes, and between tribes and non-tribal groups – although the State is involved in all of these conflicts in some way or another. As a result, there is an alarming concentration of troops, border security forces and police personnel in this region. Further, the Armed Forces (Special Powers) Act, 1958 is in operation in the states of Manipur, Assam and Nagaland as well as parts of Tripura and Arunachal Pradesh. This Act gives considerable powers to the armed forces to arrest and search without warrant as well as shoot to kill on mere suspicion, once an area has been declared as 'disturbed'. The Act also provides that no legal proceedings can be initiated against military personnel without permission from the Central Government. Many cases of extra-judicial killings, rapes and harassment by armed forces have been reported in these States amidst a culture of impunity. Apart from protracted armed struggles with the State as well as inter-ethnic conflicts, there are also more localised peaceful instances of struggles of tribals against the State and corporations over land and natural resources, occurring across the country.

To conclude, the above sections have provided a brief profile of the Scheduled Tribes of the country in an attempt to provide an outline of the communities at the centre of this report. Such a broad sketch certainly fails to adequately capture the full richness, diversity and complexity of tribal life and the struggles of the tribal people. However, it serves as a short introduction to the chapters that follow and which constitute a detailed exposition of each of these issues – from the scheduling of tribes to the plight of the Particularly Vulnerable Tribal Groups (PVTGs), the changing livelihoods of the tribals to their rights over forest resources and their displacement for the construction of mines and dams.

4. Tribes: Legal and Administrative Framework

Section I: Definition and concept of tribe

4.1 Definitions of 'tribe'

The Indian Constitution, and laws made under it, recognise the special status of tribal communities. While sociologists and social anthropologists have debated the defining characteristics of a tribe, the Constitution recognises that tribal communities need and deserve special protections and that the politico-administrative establishment must act to ensure that such protections are extended to tribal communities. Accordingly, the device of scheduling has been adopted to enable identification of tribal communities and tribal areas that are to come within this dispensation.

It is necessary to examine the early origins of the concept of 'tribe' and its transformation in various historical and political contexts, specifically during the colonial period in the Indian sub-continent. In the Roman context, the term 'tribe' was used to refer to a state of barbarism, but also to indicate a tributary relationship between a group and the imperial State, with whom gifts and tributes were exchanged. Tribe, therefore, referred to a particular relationship between centre and periphery, which was equally applicable to the tribal relationship with the Mughal Empire in India. One of the other early meanings of tribe was also that of a group claiming common ancestry. Later, the idea of the tribe as people living in 'primitive' conditions became dominant. The reference to a particular relationship with the State was pushed to the background by an emphasis on the tribe as an autochthonous, homogeneous whole – an independent, self-contained unit.

In India, the local equivalent of the term 'tribe' is often assumed to be '*jana*' or 'communities of people' based on the usage of the term in ancient Buddhist and puranic texts. In this conception, the term *jana* was used in opposition to the term *jati* to indicate that these communities were outside the *jati* or hierarchical caste system of social organisation. This view, however, was not universally accepted, since other scholars point out that the categories of *jana* and *jati* do not neatly overlap with that of tribe and caste respectively in the present context.

It was largely following the various tribal rebellions during the colonial period that tribes came to be seen as the region's 'original inhabitants' who existed outside of the caste system and had been marginalised by the more advanced caste-Hindu society. The nineteenth-century ethnographic view of tribes argued that the term referred to both a *particular type of society* based on kinship ties and a *stage of evolution*.⁵ In the former view, standard definitions describe the tribe as a social group with a definite area, dialect, cultural homogeneity and unifying social organisation. An amalgam of the various traits ascribed to tribal groups include: relative egalitarianism within the

⁵ Virginius Xaxa, *State, Society and Tribes: Issues in Post-colonial India*, New Delhi: Pearson, 2008.

group, the absence of complex political structures, strong and functional kinship bonds, cooperation, territorial integrity, cultural and linguistic distinctiveness, and lower levels of technology. In the case of the latter view, tribes are seen as ‘primitive’ societies in the sense of lacking all the traits of modern, Western society in that they are non-literate, ‘uncivilised’, non-industrial, rural, and so on.

The two views are connected in that tribes were seen as having primitive social organisation, implying that tribal people were at a lower stage in the evolutionary social hierarchy in terms of their socio-cultural characteristics, economy and political structures, often being described as simple as well as insulated from changes in the larger regional polity. Tribes in the Indian context have also been defined as groups remaining outside of the structures of State and civilisation.

Each definition of tribes stresses on a particular aspect of tribal life – their relationship with the state, civilization and processes of development as well as specific features of their culture, livelihood, and economy. However, the dominant conception of tribe that developed during this period revolved around notions of ‘backwardness’, indigeneity, and separation from the larger Hindu civilization. Tribes were identified largely in terms of what they were not: they did not practice Vedic Hinduism, they were not Muslim, their societies were marked by the relative absence of economic and ritual stratification, and they were not integrated into the “modern” economy or civilization.⁶

The Census of India has also played a critical role in shaping the modern understanding of tribe through its efforts at enumeration and classification. The proper delineation of tribes began with the colonial census in the late nineteenth century to provide detailed information about the population of the sub-continent. Through this exercise, certain communities were labelled as tribes although the criteria transformed over time. In the 1881 census, the term used was ‘forest tribes’, a sub-category within the broader group of ‘agricultural and pastoral castes’. In the 1901 census, tribes were identified as those who ‘practiced animism’ thus placing religious practices at the centre. Therefore, those practising Hinduism were viewed as castes, while those practising animism were labelled tribes, although this criterion would change in the following decades such that, at present, Scheduled Tribes can practise any religion, including Hinduism and Christianity. In later censuses, additional references to territory were included, producing the label of ‘hill and forest tribes’ in 1921 and ‘primitive tribes’ a decade later. The new descriptions laid emphasis on the isolation of tribes within hill and forest areas as well as their ‘primitive’ way of life. One of the earliest attempts to create a list of tribes in the sub-continent was during the 1931 census which identified ‘primitive tribes’. This was followed by a list of “backward tribes” for the provinces made under the Government of India Act, 1935. In the 1941

⁶ David Stuligross, *Autonomous Councils in Northeast India: Theory and Practice, Alternatives: Global, Local, Political*, Vol. 24, No. 4 (Oct.-Dec. 1999), pp. 497-525.

census, tribes were identified not in terms of their religion but according to their 'origin', that is, tribes were those who have a 'tribal origin'.

Subsequent ethnographers have contested these conceptualisations, arguing that tribes have constantly been in interaction with other social groups, and that, terms such as 'primitive' and 'backward' are based on the problematic assumption of social evolutionism. Other scholars have argued that the conception of tribe as isolated was based on their emergent marginalisation through unjust forest policies, forced sedentarization and pacification during British colonial rule. Large segments of the tribal population were integrated into the market economy during this period through the appropriation of their lands as well as their labour in commercial forestry, mines and plantations.

In the post-colonial period, therefore, certain anthropologists have tended to view the 'tribe' as a colonial construction, rendering fixed and rigid those identities which were earlier relatively fluid and contextual. Anthropological accounts of tribal communities have largely provided working definitions of tribe which have often been specific to their site of study given that tribes differ considerably in terms of their population size, mode of livelihood and level of integration within the capitalist economy. There is huge differentiation, for example, in the range of occupations practiced among tribes – they may be: hunters and gatherers, shifting cultivators, settled agriculturalists, pastoralists, artisans, farm labourers, and plantation and industrial workers.

The 1950 Constitutional Amendment order with the full list of Scheduled Tribes recognised at the time was largely based on the list of "backward tribes" prepared by the colonial administration in 1936. At the time of the first census of independent India in 1951, there were 212 recognised Scheduled Tribes in the country. The term Scheduled Tribe itself is a politico-administrative category that does not capture the enormous social complexity of the various tribes encompassed within its fold. The Constitution of India categorised certain sections of the population as Scheduled Tribes to make available special welfare provisions to them – even though this category was never properly defined. In a circular fashion, tribes are defined as those groups enumerated as tribes under the Indian Constitution. Thus, Article 366(25) of the Constitution defines Scheduled Tribes as follows:

"Scheduled Tribes means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution."

The list of tribes drawn up by the colonial and post-colonial government was based on political and administrative considerations, given that State recognition could be translated into important protective and developmental benefits. However, the identification of such groups has been based on recommendations made by the officials of the 1931 Census, the First Backward Classes Commission 1955, and the

Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Tribes, 1965. The currently followed criteria for identification are: primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and general backwardness. As can be seen from several of these identifying features, the idea of the tribe as the 'primitive' has clearly continued into the post-colonial period. The first Backward Classes Commission (Kaka Kalelkar Commission) appointed by the President of India under Article 340 argued that the tribes:

“lead a separate exclusive existence and are not fully assimilated in the main body of the people. Scheduled Tribes may belong to any religion. They are listed as Scheduled Tribes, because of the kind of life led by them.”⁷

In 1951, the Tribal Welfare Committee comprising of anthropologists, social workers and administrators met under the Indian Conference of Social Work in Calcutta and recommended these criteria for differentiation of tribes: tribes are those who are still confined to their original forest habitats and follow the old pattern of life; semi-tribal communities are those who have settled down in rural areas and practice agriculture and similar occupations; acculturated tribal communities are those who have migrated to urban and semi-urban areas and are working in industries and have modern cultural traits, and other tribal communities who have been totally assimilated into the Indian population. However, there are many forest-dwellers who are not tribals; settled agriculture is practiced by many tribes (who are not semi-tribal in other respects) and migration to urban areas does not necessarily lead to the shedding of all tribal cultural traits.

In 1959, the Government of India appointed a Commission headed by Shri. U.N. Dhebar to look into the welfare of the Scheduled Tribes and even this commission failed to arrive at a satisfactory definition. The Commission concluded that Scheduled Tribes can be identified by the fact that they live apart in the hills, and even where they live on the plains, they lead a separate, excluded existence and are not fully assimilated with the rest of society. As per its recommendations, it reiterates the position that the technical definition of a tribe is any group listed as a Scheduled Tribe under Article 342.

The granting of ST status to certain social groups is an on-going process, indicating that there are groups which might identify themselves as tribes but which remain outside of the official ST category. The First Backward Classes Commission set up by the President of India in 1953, recommended the declaration of additional communities as Scheduled. Thus, through another order in 1956, the President notified a modification of the list of Scheduled Tribes. In the 1961 census, the number of Scheduled Tribe communities increased to 427, which was twice the number from the previous census. This increased to 432 by the time of the 1971 census.

⁷ Cited in the Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes, Department of Social Security, Government of India, pp. 6-7.

As the issue of anomalies within the ST list constantly arose, the government set up the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes (Lokur Committee Report) which was to advise on the proposals received by the government on revision of these lists in a “rational and scientific manner”. The committee was specifically asked for its recommendations on whether communities listed as Scheduled Tribes in one area of a particular State or Union Territory (UT) should be recognised in other parts of the same State or UT as well as in other States.

A glance at the lists of tribes recommended for both inclusion and exclusion by the Lokur Committee throws further light on their considerations while determining the legal status of groups claiming tribal identity. Some of the reasons cited for inclusion of new tribes within the list include ‘very isolated’, ‘still living in caves’, ‘living in forest areas’, or more vaguely, ‘are primitive jungle tribes’, ‘having tribal characteristics’, ‘very backward tribe’, and ‘distinctive dress and customs’. Clearly, a mixture of geographical and locational features as well as primitiveness and backwardness account for the suggested Constitutional recognition of a range of tribes. On the other hand, the explanations for suggested exclusion from the list were ‘not a tribe’, ‘do not possess tribal characteristics’, ‘population insignificant’ and ‘assimilated with the general population’.

On the question of enumeration, the Lokur Committee noted that in light of several Supreme Court rulings on the matter, it would be necessary for the government to list not simply the name of each tribe under the Schedule but to create a compendium of all local synonyms, phonetic variations and sub-tribes within each tribe in order to ensure that confusions over inclusion are avoided. The committee held that, in light of this onerous task, it should henceforth be assumed that any caste or tribe specified in the list would automatically include all synonyms, variations and sub-groups.

The Scheduled Tribes and Scheduled Areas Commission (Bhuria Commission) Report (2002-2004) has pointed out that winds of change have been sweeping through tribal society and this has resulted in the growth of individualism, particularly among the youth. However, despite transformations in the internal communitarian dynamics of tribal society which threaten to alter its very ‘tribal-ness’ the Commission noted that tribal identity is likely to reassert itself in the form of traditional norms and mores.

The Bhuria Commission Report further stated that:

*“as an individual, individualism may be practised by a tribal when he is at large and may be abroad, but even in facing the larger world his psyche looks backwards to lean on the support of his own tribal community, thereby revealing the profundity of bonds with his tribe”.*⁸

⁸ Report of the Scheduled Areas and Scheduled Tribes Commission, Government of India, 2002-2004, pp.7.

Beyond definitions of 'tribes', the Indian context has produced a situation in which classification of communities as Scheduled Tribes is not uniform throughout the country but varies based on often arbitrary administrative boundaries. Several committees have taken note of this anomalous situation, introduced through the Government of India Act, 1935, whereby members of the same tribe from an ethnological or social point of view are recognised as Scheduled Tribes in one State or one part of a State and not in others. That is, the category of Scheduled Tribes, although distinct, was connected to an understanding of 'tribal areas' in that, until 1976, area restrictions were in operation with regard to recognition as a Scheduled Tribe. This meant that it was possible for X tribe to be recognised in district Y of a particular State but not in neighbouring district Z of the same State. Thus, ST status was linked to place, although the place itself need not be a Scheduled Area.

According to the Lokur Committee, these territorial restrictions acted as a barrier to spatial and social mobility, since moving out of the area in which their tribe is recognised would imply the loss of all benefits and privileges. Such restrictions were therefore, seen to be contrary to the goal of tribal integration which advocates the end to tribal 'isolation' and the inter-mingling of populations. Despite recognition of the often bizarre consequences of area restrictions, the Lokur Committee refrained from recommending changes in the same since inter-state movement of tribes was deemed to be negligible at the time. Their report also dismissed the idea of an all-India Scheduled Tribes list, since the Constitution provides for lists to be made only at the State or UT level. The Lokur Committee recommended that the various tribes in the list should be administratively differentiated, so as to ensure that priority in development planning should be given to the more deprived, among the groups.

In 1976, the Removal of Area Restrictions (Amendment) Act was passed, which removed area restrictions on the recognition of Scheduled Tribes, making lists applicable to entire States rather than blocks and districts within States as was the case earlier. This led to a substantial increase in the tribal population as recorded in the census. Now, a tribe is included within the Scheduled Tribe list on a state-wide basis – although it is possible that the same tribe is not Scheduled Tribe in other states. However, it has been noted that the sharp increase in recorded tribal population between the 1971 and 1981 censuses was not only due to the removal of area restrictions but due to misreporting to census officials by groups with nomenclatures sounding similar to that of certain Scheduled Tribes. Between 1971 and 1981, the population of Scheduled Tribes, as recorded in the Census, rose by 95 per cent in Maharashtra and 690 per cent in Karnataka. This occurred despite the fact that reporting oneself as a Scheduled Tribe in the census does not in any way support claims for Scheduled Tribe status under the Constitution.

Despite efforts made by various governments, there continue to be several anomalies in the scheduling of tribes. The National Commission for Scheduled Tribes (NCST) has noted that cases involving inclusion of communities which are scheduled in one

state and non-scheduled in a neighbouring state need to be given priority in order that members are not denied benefits any further. The Banjaras, for example, are a recognised Scheduled Tribe settling in various parts of the country, including now in Delhi. However, the strong association between the idea of a tribe and that of rurality has led to the refusal of the Government of Delhi to list them as a Scheduled Tribe in the capital city – rather, they are included within the list of Scheduled Castes. Another curious distinction in the state of Assam is that between plains tribals and hill tribals, so the Garos, Karbis, Hajongs, Dimasas, Mon-Tai speaking peoples, Singphos, Hmars, Nagas, hill tribals, lose their scheduled status once they come down to the plains and the Bodos, Lalungs, Mech-Kacharis, all plains tribals, lose their scheduled status if they go to the hills.

There are also other anomalies in the process of scheduling such as instances of increasing the communities within the Scheduled Tribes list in the state without simultaneously reserving electoral constituencies for STs. There is also the concern that some tribes classified under the Particularly Vulnerable Tribal Groups (PVTGs) have not yet been notified as Scheduled Tribes, a situation that the NCST has taken up. In recent years, commentators have questioned the established criteria for inclusion as both outdated (since ‘isolated existence’ does not hold true for most communities today, even those living in remote forest areas) and derogatory to tribal groups (the idea of ‘primitivism’ is insulting to tribal culture and identity). Issues pertaining to scheduling criteria and anomalies have been examined in a report submitted by the Task Force set up on February 3, 2014 under the Chairmanship of Dr. Hrusikesh Panda, Secretary, Ministry of Tribal Affairs – and so no more need be said here.

4.2 De-notified, Nomadic and Semi-Nomadic Tribes

Scheduled Tribes in India are enormously diverse in terms of their populations, occupations, and the kinds of discriminations they face. There are also some communities which are known as ‘tribes’ but who are not necessarily included within the Scheduled Tribe list. Two other important governmental classifications of tribes which refer to specific histories and vulnerabilities of these communities are: De-notified, Nomadic and Semi-Nomadic Tribes and Particularly Vulnerable Tribal Groups (PVTGs).

The recent history of De-notified Tribes (DNTs) can be traced back to the Criminal Tribes Acts (CTA) of 1871 and later 1911 under which between 150 and 200 communities were deemed to be ‘hereditary criminals’ and subject to surveillance, confinement and gross discrimination. The Acts represented the formalisation of a view held by the British for several decades before and are connected to previously existing prejudices against wandering and/or rebellious communities. The apparent purpose of the CTA was to contain and curb entire communities who were viewed as

‘hereditarily criminal’, in light of the then prevailing notion that crime was a genetic trait passed down from one generation to the next. All that was needed for declaration of a community as a CT was “reason to believe” (rather than any factual evidence) that the community was ‘addicted’ to crime.⁹

A large proportion of the communities who came to be labelled as ‘criminal’ were nomadic groups whose diverse occupations led them to be itinerant communities, travelling from village to village practising their trade. These ‘wandering tribes’ were viewed as being more criminal than others since their restlessness and mobility itself was viewed as a sign of their criminality in a society wherein sedentary living was associated with respectability. Some other such groups were said to have been employed as guards to landlords as well as henchmen to the king, often performing the dirty work of their employers and hence, earning some notoriety.

The CTA gave enormous powers to the local police force which could confine these communities to specific areas in order to control their criminal activities. In later years, another draconian provision was added to the Act which allowed for the creation of ‘settlements’ for criminal tribes, thereby forcibly sedentarising them and simultaneously forcing them into both agricultural and industrial work to ‘reform’ and ‘cure’ their criminal propensities. Another provision of the Act allowed for the creation of separate reformatory settlements for the children of these tribes.

The CTA was removed from the statute books in 1952 on the recommendation of the All India Criminal Tribes Inquiry Committee (1949) and henceforth, ‘Criminal Tribes’ came to be known as ‘De-notified Tribes’ instead. Even though the law has been repealed, the identification of these communities as ethnic groups having criminal antecedents continues to this day, leading to everyday discrimination in terms of access to education and jobs as well as brutal violence by neighbouring communities and police personnel.

Traditionally, de-notified, nomadic and semi-nomadic communities practice a range of occupations and are remarkably internally diverse. Scholars have classified them according to four broad categories: 1) pastoralists and hunter-gatherers, mainly shepherds, cowherds and hunters of small game, 2) goods and service nomads, such as blacksmiths, stone workers, weapon makers, salt traders, basket makers and so on, 3) entertainers including dancers, acrobats, snake charmers, monkey trainers and wrestlers, and 4) religious performers, ascetics, devotional singers, minstrels and astrologers.¹⁰

However, a vast number of historical changes have jeopardised their livelihoods, beginning from the colonial period. Hunter-gatherers and pastoralists have been affected by the growing restrictions on access to grazing grounds and forests, the

⁹Meena Radhakrishna, *Dishonoured by History: ‘Criminal Tribes’ and British Colonial Policy*, New Delhi: Orient Longman, 2008.

¹⁰Milind Bokil, *De-notified and Nomadic Tribes: A Perspective*, *Economic and Political Weekly*, January 12, 2002, pp. 151.

degradation of natural resources as well as increasing privatization of common property resources. Travelling goods and service communities have suffered as a result of mechanised production systems, the displacement of traditional building materials and the development of new infrastructure such as roads and railways. Further, entertainer communities have been destroyed as a result of wildlife conservation laws.

One major issue that has been raised with regard to de-notified and nomadic communities is the lack of proper enumeration and classification which made the planning and implementation of welfare schemes difficult. Some of these communities have been listed as Scheduled Tribes, others as Scheduled Castes, and some as Other Backward Classes (OBCs). Further, as is the case with the ST list itself, there are disparities in listings of the same group across States and even within the same State. For example, the Kaikadis are listed as Scheduled Castes in the Vidharba region of Maharashtra, as Vimukta Jatis and Nomadic Tribes (VJNTs) in the rest of this State and as Scheduled Tribes in the neighbouring State of Andhra Pradesh. Similarly, the Banjaras are a Scheduled Tribe in Andhra Pradesh, Odisha and Bihar, a Scheduled Caste in States like Karnataka, Delhi and Rajasthan, OBC in Uttar Pradesh and a De-notified Tribe in Maharashtra and Tamil Nadu.

While these anomalies have not been addressed, the situation of DNTs is exacerbated by the fact that many groups are not included under any list and are denied access to affirmative action policies and development programmes despite the historical (and continuing) injustice faced by these peoples. Moreover, in the absence of reliable data about the population, geographical spread and development indices among these groups, it is hard for policy-makers to plan an effective intervention strategy for DNTs. According to some estimates, there are about 1500 nomadic and semi-nomadic communities and 198 De-notified Tribes in the country.

4.3 Particularly Vulnerable Tribal Groups (PVTGs)

Certain tribes have been characterised as Particularly Vulnerable Tribal Groups (PVTGs) (earlier known as Primitive Tribal Groups) on the basis of their greater 'vulnerability' even among the tribal groups (although the precise contours of their vulnerability has not been clearly defined). PVTGs, currently including 75 tribal groups, have been identified as such on the basis of the following criteria: 1) forest-dependent livelihoods, 2) pre-agricultural level of existence, 3) stagnant or declining population, 4) low literacy rates and 5) a subsistence-based economy. As per the 2001 census, these 75 PVTGs had a total population of 27,68,322. The majority of the PVTG population lives in the six States of Maharashtra, Madhya Pradesh, Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh and Tamil Nadu. Odisha has 13 PVTGs, the largest number for any State. Even within the groups labelled PVTGs by the State, there is considerable differentiation, most obviously with respect to size –

there are 19 groups with a population of less than 1000 persons and 8 groups with a population of more than one lakh.

The vulnerability of the PVTGs primarily stems from the loss of their traditional livelihoods, habitats and customary resource rights through the gradual exploitative intrusion of the market and State into their areas in the form of industrial projects, conservation efforts, tourism, and the forest bureaucracy and so on. These conditions have led to the loss of their land and resources resulting in chronic malnutrition, starvation and ill health among these groups. The groups most under threat have been identified as the Shompens, Sentinelese and Jarawas of the Andaman Islands; the Bondos of Odisha; Cholanaickans of Kerala; Abujh Marias of Chhattisgarh and Birhors of Jharkhand. Some PVTGs such as the Paudi Bhuiyan in Odisha are still not included within the list of Scheduled Tribes.

One of the most critical issues to be addressed with regard to PVTGs is their perceived 'primitivism' and 'backwardness' evident in official discourse. Although, the term 'Primitive Tribal Groups' was replaced by 'Particularly Vulnerable Tribal Groups' in 2006, the highly derogatory term 'primitive' continues to be used by the government, media and NGOs. For instance, a look at the website of the Andaman and Nicobar administration on vulnerable tribal groups of the islands reveals the continued use of colonial depictions of tribes as 'primitive' and 'hostile'. On the Shompens, it is noted that "Shompens have been visiting the settlers and they are gradually shaking off their shyness and indifferent attitude towards the civilized people".¹¹ It is essential for government bodies to shed assumptions of tribal backwardness and savagery. Moreover, even though it is imagined that PVTGs have lacked contact with other social groups and have to be protected from outside intrusion, it must be noted that these groups have had long histories of contact and change and it is precisely these exploitative encounters, which have contributed to their contemporary condition. Stereotyping of PVTGs as 'backward' presumes a linear trajectory of development and progress and devalues the culture and traditions of these communities with devastating effects.

It must be noted that all tribes in the list of PVTGs have not been granted Scheduled Tribe (ST) status. For example, the Abujh Maria has only recently been granted ST status in the State of Chhattisgarh even though they have been in the PVTG list earlier. The rationale behind inclusion and exclusion must be made clear and all discrepancies must be immediately addressed. Further, of the States with PVTGs, Kerala, Karnataka, Tamil Nadu, Uttar Pradesh and West Bengal do not have Scheduled Areas, thereby increasing the vulnerability of these tribes, who lack the protections and rights offered by the Fifth Schedule and the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996.

¹¹ *Andaman and Nicobar Administration, A Brief Note on Vulnerable Tribal Groups, Available at <http://www.and.nic.in/andaman/tribes.php>*

Their socio-economic vulnerability and low population levels has led them to be treated as 'endangered' and 'on the verge of extinction' - terminology which denies them their full humanity. Rather than granting them their autonomy and rights to address historical injustices, this perception has led to disastrous State Government interventions in the name of their 'preservation'. One such scheme has been the State policy disallowing members of PVTGs from availing of sterilisation schemes in government hospitals. Tribes such as the Paharias, Baigas, Kamars and Pahari Korvas of central India have been denied permanent methods of contraception in an attempt by the State to encourage population growth in the face of their apparently dwindling numbers.¹² This policy originated in an order passed by the Madhya Pradesh government in 1979 to exclude vulnerable tribal communities from the wave of sterilisation drives taking place across north India. However, even decades later, this order continues to be followed.

Such a policy denies members of PVTGs the autonomy to make free and informed reproductive choices, and particularly denies any agency and bodily autonomy to women of these communities, who have to bear the burden of the denial of access to sterilisation facilities. Moreover, it sidesteps the real factors contributing to high mortality rates such as chronic malnutrition, starvation and lack of access to adequate health facilities. On the other hand, in the Wayanad district of Kerala, Kattunayakan tribals are sometimes coerced or intimidated into undergoing sterilisation in order for health workers to meet necessary sterilisation targets. Both practices need to be condemned and it is necessary that the reproductive rights and autonomy of PVTGs be respected by the State. The real issue for PVTGs is the non-provision of health facilities as well as denial of their right to sufficient, nutritious food.

Tribal groups such as the Sahariya in Baran, Rajasthan continue to work as bonded labour for rich landlords for generations. Many of them are agricultural labourers working under the *hali* system which is one of the forms of bonded labour banned under the Bonded Labour (Abolition) Act 1976.¹³ Many Sahariyas were tricked into accepting loans with exorbitant interest rates and subsequently have had to work for big landowners without wages. Tribal indebtedness is a huge problem, often leading to situations of bonded labour. Even among the Juang PVTGs in Odisha, many families are forced to labour in repayment of their debt in a system locally called *goti* – despite the prevalence of the central law as well as the Orissa Debt Bondage (Abolition and Regulation) Act, 1948. Action must be taken to ensure that all PVTGs are removed from bondage and freed of their debts.

Literacy rates among PVTGs are extremely low, most often much lower than even the State average for the Scheduled Tribe population. This is largely due to the abysmal

¹²Aarti Dhar, *Misconstruing order, Chhattisgarh tribals denied sterilisation for three decades*, *The Hindu*, October 31, 2012, Available at <http://www.thehindu.com/news/national/misconstruing-order-Chhattisgarh-tribals-denied-sterilisation-for-three-decades/article4048484.ece>

¹³Anumeha Yadav, *The story of slavery that Jaipur can no longer deny*, *Tehelka*, Vol. 7, Issue 51, December 25, 2010, Available at http://archive.tehelka.com/story_main48.asp?filename=Ne251210The_story_of.asp

education infrastructure in tribal areas, poorly trained or absentee teachers, lack of teaching in tribal languages and irrelevant and alienating curriculum. Yet PVTG children are highly educated in many ways and possess considerable knowledge about agriculture, forests and so on which must be duly recognised. Any educational policy or programme for PVTGs would need to take account of their distinct culture in order to develop a curriculum and pedagogic style which centralises their traditional skills, culture and language while introducing young people to diverse knowledge and cultures from across the world.

Many PVTGs are forest dwellers and depend heavily on land and forest resources for their subsistence. Over time, their habitat has been declared as Reserved Forest, Protected Forest, leaving them vulnerable to displacement and eviction without compensation. For instance, in 2009, 245 Baiga families were moved out of the Achanakmar Tiger Reserve, when it was notified under Project Tiger.¹⁴ The housing colonies built for their rehabilitation soon began to collapse, they did not receive pattas for their new farmland and they did not get the full compensation owed to them under the Project Tiger relocation scheme. The Baiga families were relocated to an area where their traditional forest livelihood of collecting Sal and Tendu leaves as well as bamboo was no longer feasible. In Tamil Nadu, the Kattunayakans, a tribe of honey-collectors, who live on the fringes of the Mudumalai Wildlife Sanctuary, a 321-square-kilometre park, are being prevented from collecting honey as well as other produce from the forest area due to immense harassment from forest guards.¹⁵ The adivasis here are denied their rights to access the forest in complete violation of the Forest Rights Act, 2006 which has yet to be implemented in the State of Tamil Nadu. It is essential that the habitat rights of PVTGs as guaranteed by the FRA be recognised by the Forest Department and the claims filed by forest-dwelling communities be granted at the earliest. It is crucial that their lands and habitats be protected from any intrusions and that displacement be prevented.

Habitat rights for PVTGs as guaranteed by the Forest Rights Act must be granted to them and definitional as well as procedural ambiguities must be cleared up. Section 3(1)(e) of the FRA recognises the “rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities” and Section 2(h) defines ‘habitat’ as the “area comprising the customary habitat and such other habitats in Reserved Forests and protected forests of Primitive Tribal Groups and pre-agricultural communities and other forest dwelling Scheduled Tribes”. The FRA Amendment Rules now provide that, “In view of the differential vulnerability of PVTGs, the District Level Committee shall ensure that all PVTGs are conferred habitat rights, in consultation with their concerned traditional institutions and that their claims for habitat rights are filed before the concerned Gram Sabhas”. State

¹⁴ Sayantan Bera, *Baigas in exile*, *Down to Earth*, July 31, 2012, Available at <http://www.downtoearth.org.in/content/baigas-exile>.

¹⁵ Mari Marcel Thakaekara, *Honey is life*, *New Internationalist*, Issue 425, 2009, Available at <http://newint.org/features/2009/09/01/tribal-peoples/>

Governments need to be urged to recognise habitat rights over revenue land in addition to habitat rights over forest land (granted by the FRA). Except for the Madia in Maharashtra and the Chuktia Bhunjia, Mankadia, Dongria-Khond, Juang, and Khadias in Odisha, there have been few efforts to claim habitat rights. In order for this to occur, it would be necessary for the government to clear up the confusions regarding definition of habitat; clashes between traditional and State/district boundaries; claims to habitat rights in protected areas such as tiger reserves; and habitat rights for displaced PVTGs.

What has often occurred in the past is that development programmes have been imposed on PVTGs without considering their own priorities and development needs. In the current moment, a move away from the one-size-fits-all approach to development is absolutely essential.¹⁶ An enabling environment must be created in which communities are empowered to make their own choices about the path of development they would like to follow and the livelihoods they wish to adopt. No development project can be imposed on PVTGs – instead all welfare projects/plans/schemes must move forward only with their informed consent as well as their participation in the process of planning and decision-making. As the National Advisory Council recommendations have noted, there is a significant risk that vulnerabilities may be exacerbated rather than reduced through government intervention and therefore due caution must be exercised in all cases. Programmes should not have the effect of undermining their self-sufficiency and their own development priorities must be the driving force of government action. Vulnerabilities must be addressed through taking account of their food production and distribution systems and their rich repertoire of traditional skills and knowledge.

4.4 Scheduled Areas

In the wake of tribal rebellions in the nineteenth century, the British became convinced of the vulnerability of tribal populations in the form of various ‘outsiders’ and assumed the role of paternalist protectors of tribals against the non-tribal exploiters. This brand of protectionism, however, worked to justify British presence in tribal areas as the guardian of their interests. Indeed, British policy toward tribals followed a contradictory path: on the one hand, it advocated protection of these areas through exclusion from the operation of general laws and on the other hand, it facilitated assimilation with the larger social structures through the market.

Even prior to the development of a delineation of the characteristic features of a tribe, there existed a separate system of governance for predominantly tribal areas marked

¹⁶ See *Development Challenges Specific to Particularly Vulnerable Tribal Groups, Recommendations of the National Advisory Council, 2013.*

by special legal provisions and the non-applicability of general laws in these areas. Thus, the creation of distinctive tribal spaces in legal-administrative terms preceded the classification of specific groups as tribes based on established criteria. These areas are referred as Scheduled Areas in the post-Independence period.

In the Singhbhum area, for example, the British introduced a system of administration, similar to that already in place in Ramgarh and Jungle Mahals through Regulation XIII of 1833. Wilkinson's Rules meant the withdrawal of regulations in force in other parts of British India and the assignment of all governance in the district to the Political Agent to the Governor-General. These areas came to be known as Non-Regulation Provinces and were to be governed by special rules for civil and criminal justice, collection of land revenue, and so on. In 1874, another law was passed which renamed the non-regulation tracts as Scheduled Districts and defined their geographical boundaries. In the Northeast region, in addition, the British put in force the Inner Line Regulation in 1873, as the point beyond which general laws for the colony would not be applicable and entry of subjects living outside the area was strictly prohibited.

The separation of these areas continued with the Government of India Act, 1919 which renamed the Scheduled Tracts as 'Backward Tracts' and also distinguished between 'really backward tracts' wherein the Governor General was exclusively responsible for law and administration and the 'backward tracts' wherein the Governor General could act through local officials. This nomenclature was altered to 'wholly excluded areas' and 'partially excluded areas' respectively by the Simon Commission according to the level of backwardness. The Government of India Act, 1935 followed from this, stating that the Governor could determine policy directly or through his agents in the tribal areas and prohibited legislative Council members from asking any questions about the administration of the excluded areas. Functionaries of the colonial government were, therefore, singularly responsible for about 15 million people in the sub-continent.

The role of the Agent of the Governor-General in these areas was two-fold: to protect the tribal from the non-tribal populations and to exert a civilizing influence on them through programmes of reform. The policy of exclusion came from the belief of the colonial government that their government would be best for the tribals and that the Indian government would only impose dominant cultural values on them. Thus, a special class of areas with tribal-majority populations was created, within which a distinctive legal framework would operate with the following characteristics: rule by district officers under the governor, simple procedures in dispute settlement, restriction of entry of non-tribals, the exclusion of these areas from the operation of ordinary laws.

One of the primary features of the Partially Excluded areas was that no general laws would apply to these areas, unless the Governor saw it fit to apply these legislations.

In the post-1947 period, however, this feature was altered vis-à-vis the Fifth Schedule areas since now all Central and State laws would automatically apply to tribal areas unless the Governor took the decision to prevent application or modify/amend the legislation in keeping with the circumstances of the Scheduled Areas. Rarely do Governors invoke this power leading to a situation where in all legislations, irrespective of their suitability in Scheduled Areas, are operational without any amendment or alteration.

At the same time, one of the assumptions behind the creation of these spaces was the idea that the tribes could not cope with the complexity of representative institutions. The Montagu-Chelmsford Report which was to later form the basis of the Government of India Act, 1919 even noted that “there was no political material on which to found political institutions” in these areas.

The demand for political autonomy by tribals was overlooked, despite several on-going agitations for political rights. Further, this view neatly separated the related issues of social and economic well-being and political power. The resultant policies were based on the economic integration of tribals through development programmes while attempting to ensure that the cultural aspects of their society such as language and customs were left untouched. This understanding of the tribal question continued into the post-colonial period. The Constitution of India continued with this system of governance through the separate, but inter-linked categories of Scheduled Tribes and Scheduled Areas.

Similar to Scheduled Tribes, the definition for Scheduled Areas (under the Fifth Schedule of the Constitution) is “such areas as the President may by order declare to be Scheduled Areas”. The criterion for the declaration of an area as a Scheduled Area was identified by the first Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission). The features of such an area were: the preponderance of tribal population, compactness and reasonable size of the area, under-developed nature of the area, and marked disparity in the economic standard of the people. Several orders relating to Scheduled Areas have been passed by the President over the years. The present Scheduled Areas follows the pattern of the erstwhile Partially Excluded Areas, although more orders regarding Scheduled Areas have been passed by the President in the post-Independence period. Since 1976, there have been efforts to ensure that the Scheduled Areas coincide with the Tribal Sub-Plan areas through several orders, although this task is still not complete.

It is important to reiterate that there are several tribal-populated and tribal-dominant areas across the country which are not Scheduled Areas and therefore, are not covered by the protections offered under the Fifth Schedule. These include tribals living in the nine States of India which have Scheduled Areas as well as those living outside of these States – for example, in West Bengal, Bihar, Uttar Pradesh, Uttarakhand, Goa,

Tamil Nadu, Kerala, and Karnataka and the Union Territories of Daman and Diu, Dadra and Nagar Haveli, Lakshadweep, and the Andaman and Nicobar Islands.

For example, the southern region comprising Karnataka, Kerala and Tamil Nadu comprise over five per cent of the total Scheduled Tribe population. Karnataka alone has 50 recognised tribal groups within its State boundaries while Tamil Nadu has 37 Scheduled Tribes and Kerala has 36 Scheduled Tribes. A large proportion of the tribal population of South India belongs to the Nilgiri hills region, covering all these three States. Although, a survey by the British in 1847 apparently revealed that about 78 per cent of the people in the Nilgiri plateau region were tribal hunter-gatherers, pastoralists and shifting cultivators, these areas were never scheduled, possibly due to British economic interests in the emerging plantation economy.¹⁷ Tribals in this region face serious problems of landlessness, land alienation, malnutrition, bonded labour, eviction from National Parks and Sanctuaries, as well as displacement due to mines and hydroelectric projects. However, by and large, discussions around tribal rights tend to focus on Fifth and Sixth Schedule Areas to the neglect of other non-Scheduled regions with substantial tribal populations.

On the question of Scheduled Areas, the Bhuria Commission (2002-2004) requested the governments in the various States with sizeable tribal populations to comment on the existing criteria for scheduling of areas through an assessment of their validity within the contemporary context and through recommendations that could make the given criteria more specific and precise. For example, it remains unclear what exactly 'preponderance' of tribals means in terms of percentages of the population. There is also the question of the size of the administrative unit within which 'preponderance' is necessary – at the level of the district or the block or the village. This is an especially important question given that there has been considerable in-migration of non-tribals to Scheduled Areas as well as non-Scheduled areas with large tribal populations. This influx has changed the relative population of tribal and non-tribal communities in the area, often worsening the disparity between the two groups.

The State Governments, in response to the Bhuria Commission, provided several suggestions on this issue, with some calling for changes in the criteria while others declaring their satisfaction with the status quo as regards their States.¹⁸ The State Government of Chhattisgarh noted that while it has about 81,669 sq. km as Scheduled Areas, there are 88,000 sq. km in the state under the Tribal Sub-Plan (TSP), thus creating a disparity which must be addressed by making Scheduled Areas coterminous with TSP areas. They further suggested the condition of 50% Scheduled Tribe population for declaration of Scheduled Area as well as the treatment of the Gram Sabha as a viable unit. Madhya Pradesh, on the other hand, has suggested a norm of 40% tribal population in a block and Gram Panchayat for eligibility. The

¹⁷ Ratnaker Bhengra, C.R. Bijoy and Shimreichon Luithui. 1998. *The Adivasis of India*, Minority Rights Group International, p.21.

¹⁸ *Report of the Scheduled Areas and Scheduled Tribes Commission, Government of India, Volume I, 2002-2004.*

government also argued that human development indices may not be a viable standard for exclusion from Scheduled Areas, since there is considerable economic and social differentiation between and within tribal groups. The Rajasthan government recommended that the backwardness of an area be assessed, according to the following parameters: ST female literacy and availability of safe drinking water, healthcare, and electricity. Based on these suggestions, the Bhuria Commission recommended:

a) that the notification of Scheduled Areas should include villages as well as towns and cities in the blocks, tehsils and districts, including all forest and revenue lands

b) that all the Integrated Tribal Development Projects (ITDPs), Modified Development Approach (MADA) pockets included in the Tribal Sub-Plan should be considered for notification as Scheduled Areas subject to conformity with the established standards.

The parameters for further inclusion of non-Scheduled Areas within the ambit of the Fifth Schedule must be debated by the central and State Governments and action must be taken in this regard immediately. The situation wherein a substantial number of Scheduled Tribes reside outside of the Scheduled Areas needs to be addressed to ensure that tribes are not denied the protections offered by the Constitution and other legislations pertaining to Scheduled Areas. Given the onslaught of global market forces on tribal lands, the extension of such provisions is of the utmost importance and urgency.

Section II: Legal and Administrative Framework in Scheduled Areas

In the post-colonial period, the classification of an area (which may range in size from a single village to a block to an entire district within a State) as a Scheduled Area carries significant legal and political implications since it is on this basis that the provisions of either the Fifth or the Sixth Schedule apply.¹⁹ These constitutional arrangements for the Scheduled Tribes follow different patterns and provide for both protections from non-tribals (particularly on land alienation, money-lending and political representation) and provisions for autonomous decision-making on various matters. These frameworks constitute the recognition of the adverse inclusion of tribal communities within the global political economy as well as the distinctiveness of tribal culture and identity threatened by the cultural imperialism of the non-tribal majority. At the same time, it must be noted that several of these provisions are paternalistic in nature and are not entirely adequate to the onerous task of ensuring the protection of tribal land and resources given the current context of liberalisation. Moreover, the experience of the functioning of the institutions created under these constitutional provisions demonstrates that stricter implementation and further strengthening of laws is an urgent necessity. This section examines the various arrangements instituted for the Scheduled Tribes and briefly analyses the strengths

¹⁹ However, there are provisions beyond the Fifth and Sixth Schedule that apply to tribal areas and provide for various degrees of autonomy and self-government. These will also be explored in the following sections.

and weaknesses of each. Such an analysis is essential in order to objectively assess whether these provisions have fulfilled their stated goals over the last sixty years and to begin a discussion on potential mechanisms to strengthen their functioning in the future.

4.5 The Fifth Schedule

The basis of the Fifth Schedule of the Constitution can be traced back to the laws of the British colonial government designating certain parts of the sub-continent 'backward tracts' and 'partially excluded areas'. The latter term was incorporated into the Constitution and it is within these tracts labelled Scheduled Areas (wherein a large number of Scheduled Tribes reside, alongside other relevant criteria) that the Fifth Schedule is applicable. The debate around the Fifth Schedule, its relevance and its efficacy vis-à-vis the intentions of the Constitution makers are as contentious today as they were during the debates of the Constituent Assembly.

During the debates regarding the provisions of the Constitution of the modern Indian nation, the issue of the administration of the Scheduled Tribes generated heated debates on the post-colonial State's policy toward and legislation on adivasi communities. Largely, nationalist leaders and social reformers favoured the assimilation of tribals into 'mainstream' Indian society, and their views were pitted against those of the British administrators and anthropologists who advocated isolationism or protection. These contrasting positions were reflected in the famous debate between G.S. Ghurye and Verrier Elwin in which the latter argued for a policy of protection of the 'tribal way of life' and the former stated that those in favour of isolation sought a revival of the past, and that Elwin's position ignored the histories of tribal migration and intermingling with non-tribal populations. While both views were heard out, the policy ultimately adopted was a middle ground of 'controlled integration', the middle ground advocated by then Prime Minister Shri. Jawaharlal Nehru. There was, therefore, recognition of difference, even if this was done in the pursuit of its eventual erasure. An approach of simultaneous 'protection' and 'uplift' was stressed.

The belief that tribal areas required special laws led to the setting up of the Advisory Committee on Fundamental Rights and Minorities by the Constituent Assembly, 1947. This body appointed three sub-committees in 1947 to look into specific tribal areas and make suggestions for their administration and functioning. The first was authorized to look into the excluded and partially excluded areas 'other than Assam' and was headed by Shri. A.V. Thakkar, the second to examine tribal areas within undivided Assam chaired by Shri. Gopinath Bardoloi, and the third was to analyse the situation of tribes in the North Western Frontier Province. The proposals of the first two committees were later incorporated as the Fifth and Sixth Schedules of the Indian Constitution.

The report of the Joint Sub-Committee described tribal society as “lacking in such civilizing facilities as roads, schools, dispensaries and water supply”.²⁰ Tribal people are described as “extremely simple people who can be and are exploited with ease by plainsfolk”. Hence, a policy of protectionism would be necessary since “sudden disruption of the tribal customs and ways by exposure to the impact of a more complicated and sophisticated manner of life is capable of doing great harm”²¹ At the same time, it was argued that isolationism was not the solution since only a continuous process of assimilation into mainstream Indian (and Hindu) society would lead to their ‘development’. The debate on the tribal question took place on 5th and 6th September, 1949 and the main focus remained on this issue - “reconciling the diversity of custom with the ‘national life of the country’”.²²

The Fifth Schedule (Article 244(1)) of the Constitution finally adopted by the Constituent Assembly did not include several of the recommendations of the sub-committees and Assembly members. The Fifth Schedule contains provisions relating to the administration of Scheduled Areas other than in Northeast India. First, areas can be designated Scheduled Areas on the order of the President, who can similarly declare that certain parts of/entire Scheduled Areas cease to be such. Second, the Governor of each State having Scheduled Areas shall annually, or whenever required by the President of India, submit a report to the President regarding the administration of Scheduled Areas. Currently, certain parts of nine States of the country are covered by the Fifth Schedule. The broad list of Scheduled Areas is as follows:²³

State	Areas
Andhra Pradesh	Visakhapatnam, East Godavari, West Godavari, Adilabad, Srikakulam, Vizianagaram, Mahboobnagar, Prakasam (only some mandals/villages are scheduled mandals)
Jharkhand	Dumka, Godda, Deogarh, Sahabgunj, Pakur, Ranchi, Singhbhum (East&West), Gumla, Simdega, Lohardaga, Palamu, Garwa, (some districts are only partly tribal blocks)
Chhattisgarh	Sarbhuja, Bastar, Raigad, Raipur, Rajnandgaon, Durg, Bilaspur, Sehdol, Chindwada, Kanker
Himachal Pradesh	Lahaul and Spiti districts, Kinnaur, Pangi tehsil and Bharmour sub-tehsil in Chamba district
Madhya Pradesh	Jhabua, Mandla, Dhar, Khargone, East Nimar (khandwa), Sailana tehsil in Ratlam district, Betul, Seoni, Balaghat, Morena
Gujarat	Surat, Bharuch, Dangs, Valsad, Panchmahal, Sadodara, Sabarkanta (parts of these districts only)
Maharashtra	Thane, Nasik, Dhule, Ahmednagar, Pune, Nanded, Amravati, Yavatmal, Gadchiroli, Chandrapur (parts of these districts only)

²⁰ Cited in Amit Prakash, *Contested Discourses: Politics of Ethnic Identity and Autonomy in the Jharkhand Region of India, Alternatives: Global, Local, Political*, Vol. 24, No. 4 (Oct.-Dec. 1999), pp. 475 from Joint Report of the Excluded and the Partially Excluded Areas (other than Assam) and the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committees, August 25, 1947.

²¹ *Ibid.*

²² Nandini Sundar, *Subalterns and Sovereigns: An Anthropological History of Bastar*, New Delhi: Oxford University Press, pp. 185.

²³ The list below only serves as a broad outline of the Scheduled Areas and does not constitute an exhaustive and detailed catalogue of areas under the Fifth Schedule.

Odisha	Mayurbhanj, Sundargarh, Koraput, Malkangiri, Rayagada, Narayanpur (full), Raigada, Keonjhar, Sambalpur, Kondmals, Ganjam, Kalahandi, Bolangir, Balasor (some blocks)
Rajasthan	Banswara, Dungarpur (fully tribal districts), Udaipur, Chittaurgarh, Siroi (some areas)

Part B of the Fifth Schedule provides for the creation of a Tribes Advisory Council (TAC) in each State having Scheduled Areas (and if the President directs, also in States having Scheduled Tribes but not Scheduled Areas), consisting of twenty members of which three-fourths must be representatives of Scheduled Tribes in the Legislative Assembly of that State. The duty of the TAC is to advise on matters pertaining to the “welfare and advancement” of the Scheduled Tribes “as may be referred to them by the Governor”. Further, the Fifth Schedule grants extensive powers to the Governor who, by public notification, may direct that a law enacted by the Parliament or the State Legislative Assembly shall not apply to a Scheduled Area, or may apply subject to certain amendments or restrictions as he/she specifies. The Governor may only make such regulations on consultation with the concerned Tribes Advisory Council and subject to the final assent of the President. The section states:

The Governor may make regulations for the peace and good government of any area in a State which is for the time being a Scheduled Area. In particular and without prejudice to the generality of the foregoing power, such regulations may- (a) prohibit or restrict the transfer of land by or among members of the Scheduled Tribes in such area; (b) regulate the allotment of land to members of the Scheduled Tribes in such area; (c) regulate the carrying on of business as money-lender by persons who lend money to members of the Scheduled Tribes in such area.

These provisions were viewed as essential in view of the historical fact that adivasi livelihoods depend on the land and that alienation of resources had led to considerable impoverishment of adivasis during the colonial period. Nonetheless, the initial recommendations of the committees and the earlier draft of the Fifth Schedule accorded far greater autonomy to tribal areas than the final version, which watered down the role of the Tribes Advisory Council to a mere consultant rather than an autonomous decision-making body. A Member of the Constituent Assembly, Shri. Jaipal Singh, had argued against this version of the Schedule and demanded instead: a statutory obligation that a report on the Scheduled Areas and Tribes be submitted by the Governor annually, that TACs be compulsorily set up in all States having Scheduled Tribes and not just in those States having Scheduled Areas, that the Governor should be bound to carry out the decisions of the TAC regarding the modification and amendment of laws made by Parliament or the State Legislature. Singh noted that the new draft (the one finally incorporated into the Constitution) made the Fifth Schedule considerably less powerful than he had hoped and “emasculated the Tribes Advisory Council”. Lamenting the lack of powers to the tribal people themselves and their representatives in the TAC, Singh stated:

*“The whole pattern of the original draft was to bring the Tribes Advisory Council into action. It could initiate, originate things, but, somehow or other, the tables have now been turned. The initiative is placed in the hands of the Governor or Ruler of the State.”*²⁴

Another Constituent Assembly member, Shri. Yudhishtir Misra, held that the TAC should not only be allowed to advise on the “welfare and advancement” of tribes, but also more broadly on the administration of the Scheduled Areas. Moreover, Misra warned that the advisory powers of the TAC should not be circumscribed by the whims and fancies of the executive as seemed likely given the current form of the Fifth Schedule – which states that the TAC can only advise on matter referred to it by the Governor. However, their suggestions were refused by their colleagues in the Assembly who believed that the work of the TAC must not be of a political nature on the grounds that it might lead to separatism and that tribals would not themselves be able to comprehend the complexities of law-making. Rather than grant genuine autonomy to tribal India, the Fifth Schedule paternalistically placed their welfare in the hands of a representative of the Centre.

Unlike the Sixth Schedule wherein Autonomous District Councils have been given significant legislative, judicial and executive powers on several important matters, the Fifth Schedule places the governance of tribal areas in ‘mainland’ India largely in the hands of the Governor. This occurred for two reasons: one, mainland areas had large non-tribal populations and two, the tribes of the Northeast were seen as more advanced and capable of self-governance unlike the tribes in other parts of the sub-continent. As a result, tribes were given ‘protection’ from outside intrusions and land alienation but were not granted much autonomy on political and economic matters.

4.5.1 Governor’s Report

Over the years, States with Scheduled Areas have developed a framework around which the Governor’s reports are to be presented. According to the Scheduled Areas and Scheduled Tribes Commission Report (2002-2004), the Governor’s report is expected to contain an objective and independent assessment of the quality of the administration of Scheduled Areas, the implementation of protective safeguards for tribals, and the regulations made by the Governor in keeping with his powers under the Fifth Schedule.²⁵ It should further cover issues of displacement and rehabilitation, law and order problem, tribal protests, atrocities against tribes, and so on. This report is required to be placed before the TAC for their advice and recommendations. On the basis of this Report, the Union Government may issue directives to the State Governments for better administration of these areas.

According to the Bhuria Commission Report (2002-2004), at the time of their writing, the States of Andhra Pradesh and Madhya Pradesh did not send their reports since

²⁴ *Debates of the Constituent Assembly of India, September 5, 1949, Available at <http://164.100.47.132/LssNew/constituent/vol9p26.html>*

²⁵ *Report of the Scheduled Areas and Scheduled Tribes Commission, Government of India, 2002-2004, pp. 36-37.*

1999-2000, while Maharashtra and Orissa had not sent theirs from 2000-2001 onward. Only Himachal Pradesh has submitted its report regularly. In more recent years, the Ministry of Tribal Affairs reports that, as of 25.5.2013, it had received Governor's Reports for the year 2011-12 only from Gujarat and was still awaiting reports from the other eight States. Maharashtra had not submitted its report for the previous year 2010-11 either.

Even when the reports are sent regularly, there have been several questions raised regarding the quality and value of the reports. Critics have pointed out that the reports are repetitive, casually and haphazardly constructed and tend to borrow heavily from reports of the tribal welfare department, merely listing out the schemes and programmes for tribal development without even examining their implementation and efficacy on the ground. Pressing issues such as the impacts of insurgency and counter-insurgency on tribal populations and displacement by big industry rarely find mention. The Governor's Reports offer quantitative rather than qualitative or analytical data about the status of tribal administration in the concerned States – even the statistical information presented relates to the flow of development funds to tribal villages and the number of beneficiaries of government welfare schemes. The reports do not offer an independent assessment of the policies of the State Governments vis-à-vis Scheduled Areas and instead seem to uncritically accept government claims of tremendous achievements with regard to tribal development.

A confidential report sent to the President by the National Commission for Scheduled Tribes (accessed by *Down to Earth* magazine in 2013) has also complained of the failure of Governors in performing their administrative duties to ensure self-governance in tribal areas. The National Commission advocated that Governors be made more accountable with regard to their roles vis-à-vis Scheduled Areas, namely ensuring the implementation of constitutional provision protecting tribal rights.²⁶ Most importantly, the Governor should ensure that all laws which contradict the constitutional protections for tribals should be repealed or modified in Scheduled Areas. The NCST further recommended that the Ministry of Tribal Affairs prepare a detailed format for submission of the Governor's reports which could include a review of all Central and State laws and their compatibility with Constitutional provisions for Scheduled Tribes and consultation with the TACs. Other experts have also advocated the inclusion of an Action Taken Report (ATR) for the previous year in the report of the subsequent year. Where such regulations have been made, they primarily pertain to control of land alienation and money lending in tribal areas and do not venture to cover the spectrum of issues that may be covered under the "peace and good government" of the area. There are several instances in which the Governor has exercised his powers to make regulations. In Odisha, these regulations have included the Odisha Scheduled Areas Transfer of Immovable Property (By Scheduled

²⁶ Jitendra, *Governors in the Dock*, *Down to Earth*, April 15, 2013, Available at <http://www.downtoearth.org.in/content/governors-dock>

Tribes) Regulation 1956, Odisha Scheduled Area Money-Lenders Regulation 1967, and the Odisha Schedule Area Debt Relief Regulation. However, reviews of the implementation of these regulations (as well as similar laws seeking to stem land alienation and money-lending in tribal areas) points to their failure owing to excessive dependence on the powerful mainstream bureaucracy unwilling to acknowledge tribal rights over land and forest. More recently, the Bhuria Commission Report has further recommended the inclusion of another subject under which the Governor could exercise his powers – for the regulation of trade and commerce in the Scheduled Areas of the State.²⁷

In April 2012, Union Minister for Tribal Affairs, Dr. V. Kishore Chandra Deo requested the Governor of Andhra Pradesh, Shri. E.S.L Narsimhan, to use his powers under the Fifth Schedule to cancel a Memorandum of Understanding (MoU) signed by the Government for bauxite mining in Fifth Schedule areas of Visakhapatnam district. It has also been noted that when Governors do exercise their Fifth Schedule powers, it is only on the advice of the Council of Ministers. Activists have complained that Governors never respond to petitions calling for their intervention in cases of land conflicts, acquisition for mineral extraction and police atrocities against tribal communities.

In order to assist the Governor in the fulfilment of the Constitutional duties of his/her office, the creation of a special Governor's Cell to work specifically on issues pertaining to the Scheduled Tribes has begun in several States. The governments of Chhattisgarh, Jharkhand, Maharashtra and Rajasthan have informed the Ministry of Tribal Affairs that they have constituted the Governor's Cell in their States, although the details of their functioning are not yet known. The Governor's Office in Andhra Pradesh has noted that there is no need for such a cell in the State since the Tribal Welfare department is capable of performing the same duties. The State of Madhya Pradesh has informed the Ministry that there was no consensus on the creation of such a cell. According to the Government of Himachal Pradesh, such a cell has already been formed in their State.

The proposed composition as per the directives of the Ministry of Tribal Affairs in a letter to states with Scheduled Areas (dated December 8, 2010) is as follows:

1. Secretary (Head)
2. Deputy Secretary's Level Officer (one Anthropology subject expert)
3. One Law and Constitution expert of Deputy Secretary rank
4. Deputy Director (anthropology subject expert)
5. Research Officer/Section Officer (one) (Research Officer should be subject expert in Anthropology/Sociology)
6. Two Assistants/Technical Assistants/Legal Assistants
7. Other supporting staff – data entry operator.

²⁷*Report of the Scheduled Areas and Scheduled Tribes Commission*, Government of India, 2002-2004, pp. 59.

The formation of the Governor's Cell is a longstanding necessity in order for the Governor to properly carry out the duties of the post vis-à-vis protection of the tribes. It is imperative that the Cell be set up in all the Fifth Schedule States and that these Cells function independently and conscientiously. Most importantly, the Cell should be prevented from becoming simply another bureaucratic institution among many performing its tasks mechanically with little autonomy or interest in tribal affairs.

4.5.2 Tribes Advisory Councils

These Councils have been set up in all the nine States having Scheduled Areas as well as two other States, West Bengal and Tamil Nadu, both having sizeable tribal populations. As discussed above, there are several shortcomings inherent in the structure and mandate of the TACs as laid down in the Constitution. Firstly, the TACs can only discuss and make recommendations on those issues which are referred to it by the Governor. Secondly, it functions only in an advisory capacity and has no power of implementation. Thirdly, the Councils are not accountable to the tribal population given that they are appointed by the Governor or the State Government.

State	Dates on which TAC meetings were held (as on 25.5.2013)	
	2011-2012	2012-2013
Andhra Pradesh	18.2.2012	Not Reported
Chhattisgarh	26.9.2011	13.7.2012 and 25.11.2012
Gujarat	24.1.2012	Not Reported
Himachal Pradesh	5.3.2012	Not Reported
Jharkhand	19.4.2011, 16.6.2011 and 30.1.2012	9.11.2012
Madhya Pradesh	20.7.2011 and 26.3.2012	Not Reported
Maharashtra	4.1.2012	Not Reported
Odisha	13.5.2011	28.9.2012
Rajasthan	21.7.2011 and 9.2.2012	7.9.2012
West Bengal	Not Reported	Not Reported
Tamil Nadu	Not Reported	Not Reported

Source: Ministry of Tribal Affairs.

A detailed study of the minutes of the meetings of the Tribes Advisory Councils by the Asian Indigenous and Tribal Peoples' Network (2012) reveals that the meetings of the Councils are almost tokenistic and critical issues (such as land alienation) are rarely discussed.²⁸ Further, the resolutions of the Councils are not followed up in subsequent meetings and the implementation of their recommendations is not independently verified. The issue of the representativeness of the TACs is also a central issue – while three-fourths of the members are to be tribal MLAs from the concerned State, the non-official, nominated members include the Chief Minister of the State (often the Chairperson of the TAC) and bureaucrats.

²⁸ Asian Indigenous and Tribal Peoples Network, *The Tribes Advisory Councils: Time to be replaced by the Autonomous District Councils*, December 2012.

The States' rules for the appointment of members hold that they shall be appointed, either by the State Government (Rajasthan Tribes Advisory Council Rules) or the Governor (Andhra Pradesh TAC Rules and Jharkhand TAC Rules) with no specifying criteria. It is the State Governments rather than the Governor which have framed the rules regarding TAC functioning which has led to the near complete usurpation of these bodies by the political parties in power both in terms of representation within the Councils as well as the issues that are taken up for discussion.

The Gujarat Tribes Advisory Council Rules, 1960 provides that "No business shall be transacted and no proposition shall be moved or discussed at any meeting, unless it has been specified in the notice for convening the meeting." The Jharkhand Tribes Advisory Council Rules states that only those matters shall be discussed in the Council which has been referred to the Council by the Governor for advice.²⁹

The Andhra Pradesh TAC (as of 2009) consists of the Minister of Tribal Welfare, Andhra Pradesh (Chairperson); the Principal Secretary to Government of Andhra Pradesh (TW), Social Welfare Department (Member); the Director for Scheduled Castes and Scheduled Tribes, Government of India (Member); the Director of Tribal Cultural Research and Training Institute, Hyderabad (Member); the Commissioner of Tribal Welfare, Government of Andhra Pradesh (Member Secretary); and 15 tribal MLAs. The Chhattisgarh TAC (as of 2009) comprises the Chief Minister (Chairperson), the Minister of Scheduled Tribes and Schedule Caste Development Department (Vice Chairperson); 15 Scheduled Tribe MLAs (Members); three Members of Parliament (nominated as Members); and Secretary, Scheduled Tribes and Schedule Caste Development Department, Chhattisgarh government (Secretary). Clearly then, a large portion of the members are State functionaries and there are few independent persons with experience and expertise on tribal issues who are nominated to the Council.

Further, the members of the TAC have few powers even in terms of what can be discussed at the Council meetings. For instance, the Chhattisgarh TAC rules states that, apart from matters referred to it by the Governor, "No issue shall be taken up for discussion and included in the proceedings and no proposals shall be passed in a meeting unless the issue has been mentioned in the notice for the meeting, however, the Chairperson can, using his discretion, permit such issues to be taken up for proceedings, that he thinks necessary and are in the direction of the motto of the Council at large but was excluded in the notice." The Bhuria Commission Report (2002-04) places on record the dismay of some members of various State Councils who complain that the State Government do not put any important matters to the Council for advice. In all these years of its functioning, the TACs have rarely made any significant policy proposals or recommendations on tribal and developmental issues.

²⁹ *Asian Centre for Human Rights, Submission to High Level Committee, December 31, 2013.*

Even when issues are taken up by the TAC, it has been noted that there is rarely any sustained and consistent engagement with the matter in the form of follow-ups and field visits. As per the minutes of their meetings, none of the TACs discussed the issue of land alienation among tribals between the years 2005 and 2011. In the case of the Himachal Pradesh TAC, an excess of items were placed before the Council for discussion but many seem to have been subject to only a cursory examination and no decisive conclusions were reached. For example, the Asian Indigenous and Tribal Peoples' Network (AITPN) report notes that at the 36th meeting held on 12 May 2006, 102 items were discussed; 104 items were discussed at the 38th meeting on 2 August 2007, and 88 items (including 21 follow up items and 67 new items) were discussed in the 40th meeting held on 15 May 2010. As a result, no single issue or group of issues could be seriously analysed and few concrete decisions could be made or implemented.

In 2012, the extremely limited powers of agenda-setting within the TAC came to the fore when two members of the Jharkhand TAC walked out of a Council meeting on the grounds that the Chairman of the TAC was uninterested in taking up serious problems of the tribal population. The specific matter which the members protested was land acquisition at Nagri for construction of India Institute of Management (IIM) and National University for Study and Research in Law. The Chairperson, however, did not allow discussion on the subject, stating that it be brought before the Council in writing first. The Chairperson's statement was countered by the members on the grounds that several memorandums had been submitted to the Council already and hence, must be placed for discussion.

There continue to be complaints regarding the legal and actual powers of the Governor with regard to the TAC as well on the point of issues to be discussed within the Council. While the Constitution holds that the TAC can hold deliberations on matters referred to it by the Governor, experts have argued over whether the Governor as the Constitutional head of the State can make this referral on his own discretion or only on the advice of the Council of Ministers. The question is central since the answer could shape future interpretations of the Fifth Schedule as well as the extent of control of various State Governments over the functioning of TACs. In recent years, the Central Government itself has given two contradictory interpretations on this issue since, in 2010, the Attorney-General Shri. G.E. Vahanvati opined that the Governor did have discretionary powers, but in 2013, the Assistant Solicitor-General, Smt. Fouzia Mirza stated that the Governor can employ his powers on the aid and advice of the Council of Ministers and not at his own discretion. This statement was made to a Public Interest Litigation (PIL) filed by activist Shri. B.K. Manish in the Chhattisgarh High Court (later dismissed) questioning the un-Constitutional functioning of the TACs, which was later argued through a Special Leave Petition (SLP) in the Supreme Court. In light of this case, the Ministry of Law and Justice issued a circular to all law officers in July, 2013 clarifying that Attorney General Shri. Vahanvati's opinion

affirming the discretionary powers of the Governor was the official stand of the Government of India.³⁰

Even when serious debate does occur at the TAC, the Council does not follow up on latest development and implementation on their recommendations. The Andhra Pradesh TAC took up the matter of the Polavaram project at its meeting in February 2007 and made the following resolutions: that all landless families to be displaced by the project should be given land in the resettlement areas, resettlement land should be identified in consultation with tribals, a publicity campaign on the R&R package should be held in all affected villages, and the TAC members should visit these villages. Between that meeting and their meeting in March 2011, however, no further inquiry or discussion of the issue was initiated and the matter seems to have been forgotten entirely.

Since the formation of the first TAC in Andhra Pradesh in 1958 until January 2012, 105 meetings of the Council have been held. But since 2006, the APTAC has stopped examining the action taken on decisions made in previous meetings, as was the practice earlier. The concerned departments do not always submit Action Taken Reports to the TAC and therefore, the earlier decisions and recommendations of the TACs, even when implemented, are not revisited in subsequent meetings (as reflected in the minutes). This is true of the Councils in almost all of the States.

4.6 Legal and Administrative Structures in Northeast India

Northeast India, home to numerous diverse ethnic groups and located strategically with borders with Bhutan, China, Myanmar and Bangladesh. Historically, tribes of this region have seen “isolationist” policies of the colonial British who labelled many hilly tribal tracts of the Northeast as “wholly excluded” areas. While the tribal-dominated areas in what is commonly referred to as ‘mainland’ India are largely governed by the provisions of the Fifth Schedule, the States of the Northeast are covered by the Sixth Schedule of the Constitution as well as a host of other legal and administrative arrangements for the protection of tribal autonomy.

As early as 1929, the Nagas submitted a petition to the Simon Commission, asking for autonomy from the future Indian nation-state. Other tribes such as the Khasis and the Mizos called for self-governance on issues such as customary laws, control over resources and so on, while also demanding separation from the larger State of Assam. Several tribes including the Nagas, Mizos, Garos, Khasis and Karbis were (and, in some cases, still are) demanding a united homeland for all their fellow tribes people who are spread across several Indian States and even across international borders.

³⁰Jitendra, *SC notice to Chhattisgarh on the way tribal advisory Councils function, Down to Earth, July 23, 2013. Available at <http://www.downtoearth.org.in/content/sc-notice-chhattisgarh-way-tribal-advisory-Councils-function>*

Some of the other demands made by tribes in this region are: protection against land alienation by settlers, continued authority of traditional Councils, and safeguards against the erosion of their cultures.

The British philosophy of maintaining status quo and isolation was replaced by policies of development and integration of the Northeast through the Sixth Schedule of the Constitution. The Schedule was drafted by a Sub-Committee of the Constituent Assembly called the Northeast Frontier (Assam) Tribal and Excluded Areas Sub-Committee headed by Assamese political leader, Shri. Gopinath Bardoloi. The sub-committee aimed to "...reconcile the aspirations of the hill people for political autonomy with the Assam government's drive to integrate them with the plains". The Sixth Schedule is entirely focused on protection of tribal areas and interests, by recognising self-governance through constitutional institutions at the district or regional level.

The Sixth Schedule provides for the creation of Autonomous District and Regional Councils and accords a host of legislative, executive and judicial powers to these autonomous bodies. It applies to certain tribal areas of the States of Assam, Meghalaya, Tripura and Mizoram, Apart from the Sixth Schedule, there are other constitutional provisions in the Northeast such as Article 371-A in Nagaland which provides autonomy on issues of religious and social practices, customary law, civil and criminal justice and ownership of land and resources. Similar provisions are operational in the State of Mizoram under Article 371- G, although parts of Mizoram are also covered under the Sixth Schedule. Manipur is governed by Article 371-C as well as the Manipur (Hill Areas) District Council Act, although this does not compare with the considerable autonomy conferred on tribal areas by the Sixth Schedule. Additionally, traditional political institutions are present alongside constitutional bodies. These include the institution of Syiems among the Khasi, the Daloi among the Jaintias and Nokma among the Garos of Meghalaya, Khulakpa among the Nagas, and Haosa, Semang and Pachong amongst the Kukis of Manipur.³¹

The following table outlines briefly the various legal and administrative structures in place in the States of the Northeast region.³²

State	Legal and administrative structures
Arunachal Pradesh	Article 371H, No Autonomous Councils, Panchayati Raj Institutions
Assam	Sixth Schedule, Article 371B, Three Autonomous Councils
Manipur	Article 371C, Manipur Hill Village Authority Act and Manipur Hill Areas District Council
Mizoram	Sixth Schedule, Article 371G, Three Autonomous

³¹ C.R. Bijoy and Tiplut Nongbri. *Country Technical Note on Indigenous Peoples' Issues: Republic of India*. IFAD, January 2013.

³² C.R. Bijoy, Shomona Khanna and Shankar Gopalakrishnan, *India and the Rights of Indigenous Peoples: Constitutional, Legislative and Administrative Provisions Concerning Indigenous and Tribal peoples in India and their Relation to International Law on Indigenous Peoples, Asia Indigenous Peoples Pact (AIPP)*, 2010.

	Councils
Meghalaya	Sixth Schedule, Three Autonomous Councils
Mizoram	Sixth Schedule, Article 371G, Three Autonomous Councils
Nagaland	Article 371A and Article 371AA, No Autonomous Councils but Village Councils in each major village
Tripura	Sixth Schedule, One Autonomous Council for all tribes (Tripura Tribal Areas Autonomous District Council)

Broadly, there are three types of legal typologies of administration of local self-government in North East States. These are Sixth Schedule Frame, State Legislation Frame, and National Frame. Sixth Schedule covers the entire Meghalaya except Shillong, parts of Mizoram, Tripura and Assam. Local Self Government of Nagaland and the non-Council areas in Mizoram fall under the State Legislation frame. Local self-government of Arunachal Pradesh, Sikkim, Manipur (excluding the hill area covered under Hill Area Autonomous Council) and non-Council areas of Assam and Tripura are covered under the National Frame.

Two types of Autonomous District Councils are found in the Northeast States. These are the Autonomous District Council set up under the Sixth Schedule and Autonomous District Council established by various Acts of the State Legislative Assembly which are not under Sixth Schedule.

- Assam has three Autonomous Councils under the Sixth Schedule: Dima Hasao District Autonomous Council (DHDAC), the Karbi Anglong Autonomous Council (KAAC), and the Bodoland Territorial Council (BTC).
- The entire State of Meghalaya except Shillong area is covered under the provisions of the Sixth Schedule of the Constitution. Meghalaya has three Autonomous District Councils under the Sixth Schedule of the Constitution. These are - Khasi Hills Autonomous District Council (KHADC), Garo Hills Autonomous District Council (GHADC), and the Jaintia Hills Autonomous District Council (JHADC).
- There are three Autonomous District Councils in Mizoram under Sixth Schedule. They all cover two administrative districts namely Lawngthlai and Saiha districts. These three Autonomous District Councils are the Chakma Autonomous District Council (CADC), the Mara Autonomous District Council (MADC), and the Lai Autonomous District Council (LADC).
- The Tripura Tribal Areas Autonomous District Council (TTAADC) is an independent Council administering the tribal areas of the State of Tripura under the Sixth Schedule.
- There are other Autonomous Councils in Assam and Manipur. These are established by Acts passed in the State Legislative Assembly. Assam has 6

other Autonomous District Councils and Manipur has same number of Hill District Councils.

- There are also special provisions envisaged in the Constitution of India which can be classified as “Temporary, Transitional and Special Provisions”.

List of Autonomous Districts and Autonomous Hill Districts in India:³³

Autonomous District	District Headquarters	Ethnic Composition	Year of formation/alteration
Bodoland	Kokrajhar	Bodos, Bengalis, KochRajbongshis, smaller tribes	2003
Karbi Anglong	Diphu	Karbis, Dimasa, Rengma, Kuki, Garos, Tiwas, Khasis, Hmars, Mizos, Chakmas, Assamese, Biharis	1951; 1976
North Cachar	Haflong	Dimasa, Kuki, Hmar, Zemei, Hrangkhawls	1951; 1970
Garo Hills	Tura	Garos, smaller tribal groups	1972 (bifurcation in 1979)
Jaintia Hills	Jowai	Pnar and Jaintia, Khasi	1972
Khasi Hills	Shillong	Khasi, smaller Groups	1972
Tripura Tribal Area	Khumwng	Bhil, Bhutia, Chainel, Chakma, Garo, Holan, Kuki, Lepcha, Lushai, Mog, Munda, Moatia, Orang, Riang, Santal, Tripura, Uchai.	1982
Chakma Autonomous District	Chawngte	Chakma	1987
Lai	Lawngtlai	Lai	1987
Mara	Siaha	Mara	1987
Darjeeling Gorkha Hill Council	Darjeeling	Gorkhas, Limbu, Rai, Gurung, Tamang, Lepchas, Bhutia, Sherpas, Newars, Marwaris, Biharis, Chinese, Anglo-Indians	1988
Autonomous Hill Development Council, Leh	Leh	Ladakhi (Bot tribe)	1995
Autonomous Hill Development Council, Kargil	Kargil	Purigba, Balti, Brokpa, Gujjar	2003

³³ Thomas Benedikter, *India's "Autonomous Councils"*, in Thomas Benedikter (Ed.) *Solving Ethnic Conflict through Self-Government: A Short Guide to Autonomy in Europe and Asia*, EURAC, 2009.

4.6.1 The Sixth Schedule

The original Sixth Schedule areas created in 1952 underwent a drastic reorganization in 1971; some areas were put under newly created States such as Mizoram and Meghalaya which were carved out of the erstwhile Assam State. The Sixth Schedule (Article 244 (2) and 275 (1)) provides for administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram through Autonomous District and Regional Councils endowed with legislative, judicial, and executive powers.

The Sixth Schedule under Article 244 (2) provides for the creation of Autonomous District Councils (ADC) in an Autonomous District and Regional Councils for autonomous regions. These Councils have legislative powers on matters relating to:

- allotment, occupation, or the setting apart of land, other than reserved forests, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town (Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied for public purpose)
- management of any forest not being a Reserved Forest
- use of any canal or water course for purpose of agriculture
- regulation of the practice of jhum or any other form of shifting cultivation
- establishment of village or town committees or Councils and their powers
- any other matter relating to village or town administration, including village and town police, public health and sanitation
- appointment of succession of chiefs or headmen
- inheritance of property
- marriage and divorce
- social custom

The Council has legislative powers over matters such as primary education, dispensaries, markets, cattle pounds, ferries, fisheries, roads, road transport and waterways. The District Council can regulate money lending and trading by non-residents or non-tribal people living in the area. It has the power to collect taxes and tolls on land, buildings and persons, professions, trades, animals, vehicles, boats, entry of goods into the local markets, goods carried on ferries, the maintenance of schools, dispensaries and roads. The ADCs can issue licenses and leases for the prospecting and extraction of minerals and are entitled to get a share of royalties accruing to the State from mineral extraction.

The Sixth Schedule further provides that no Act of the State legislature shall apply to any autonomous district unless approved by the Council. The Governor of the states under the Sixth Schedule has the power to decide to either apply or not apply any Act of Parliament or the Legislature in the autonomous area of Assam, Tripura and

Mizoram. Along with this provision, except in Assam, in all other Scheduled Area of the Northeast region, the President of India has the right to apply or not apply any Act of Parliament or the Legislature on any matter.

The Councils have judicial powers for trial of offences committed by members of the Scheduled Tribes in their respective areas of jurisdiction. The District and Regional Councils have been conferred powers under the Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1898 for the trial of certain suits, cases and offences. There is a two-tier system for judicial administration at the district and village levels. The village Council can hear cases wherein both parties belong to Scheduled Tribes while the district courts act as a court of appeal. A District Fund for each Autonomous District and a Regional Fund for each Region has been set up to channelize all the funds designated for these areas.

The Governor has the power to annul or suspend any act or resolution of a District or Regional Council which he finds likely to endanger the safety of India or to be prejudicial to public order. The Governor can suspend the Council and exercise all the powers vested in the Council. However the Governor has to lay such an order before the State legislature as soon as possible and the order shall, unless revoked by the legislature, continue for a period of twelve months from the date on which it was made. The Governor has the power to appoint a Commission at any point of time to examine and report on any matter relating to the administration of the autonomous districts and regions in the State or may appoint a Commission to inquire into and report on the administration of autonomous districts and autonomous regions. Further, the Governor has the power to dissolve a District or a Regional Council with the recommendation of such a Commission.

4.6.2 Statutory Autonomous Councils

There are also Statutory Autonomous Councils in the States of Assam and Manipur. These have been established by Acts passed in State Legislative Assembly. These can be categorised under the following heads:

1. Autonomous District Councils in Assam
2. Hill District Councils in Manipur

1. Statutory Autonomous Councils in Assam

Besides the three (i.e. The North Cachar Hills District, The Karbi Anglong District, The Bodoland Territorial Area District) Councils of the Sixth Schedule, Assam has many Autonomous Councils created by the State Government, some of which are:

1. Rabha Hasong Autonomous Council (RHAC),
2. Lalung (TIWA) Autonomous Council (LAC),
3. Mising Autonomous Council (MAC),

4. Thengal Kachori Hill Autonomous Council, (TKAC)
5. Sonowal Kahari Autonomous Council (SKAC)
6. Deori Autonomous Council (DAC)

The administrative structure of these Councils is patterned on the Autonomous District and Regional Councils created by the Sixth Schedule. This, however, has added significant confusion in the administration. There are three authorities operating in parallel in these areas, namely, the Council, the State departments and the Panchayati Raj. These Councils cover non-contiguous villages. There are many other communities – both tribals and non-tribals – who have been living before some of these tribes came. The creation of autonomous tribe-specific councils will: i) violate Part IX A of the Constitution, ii) not be inclusive as the dominant tribe will control the AC, and other communities will face real or perceived discrimination, and iii) lead to violent inter-ethnic conflicts.

2. Hill District Councils in Manipur

The Autonomous Council of Manipur has been established by the Manipur (Hill Areas) District Council Act, 1971. According to the Act, all the hill areas of Manipur were to be divided into six Autonomous Districts, each with a district Council. These Councils are:

1. Chandel Autonomous District Council,
2. Churachandpur Autonomous District Council,
3. Sadar Hills Autonomous District Council, Kangpokpi
4. Manipur North Autonomous District Council, Senapati
5. Tamenglong Autonomous District Council,
6. Ukhrul Autonomous District Council.

Each district Council has 24 members. Each District Council has an Executive Committee which is constituted by a Chairman, Vice- Chairman and five other members. The Chairman and the Vice-chairman of the District Council is the Ex-officio Chairman and Vice-Chairman respectively of the Executive Committee and five other Executive Members shall be nominated by the Chairman from amongst the Members of the District Council.

These Councils enjoy executive powers under which they are looking after 26 different subjects like construction, repair and maintenance of roads, bridges, channels and buildings; establishment, maintenance and management of schools up to Class VIII; establishment, maintenance and management of dispensaries and Primary Health Sub-Centers, water supply and sanitation schemes; construction, repair and

maintenance of embankments, and the supply, storage and control of water for agricultural purposes including irrigation schemes, preservation, reclamation and conservation of soil, animal husbandry and veterinary dispensaries, etc. However, the Manipur District Council Act, 1971 did not confer any legislative powers on the District Council although the Council can recommend legislations on matters concerning Scheduled Tribes such as the appointment or succession of chiefs, inheritance of property, marriage and divorce and social customs. The Manipur District Council Act, 1971, also granted financial power to these District Councils. Under these provisions, the Council can levy taxes on professions, trades and employment, on animals, vehicles and boats, on the entry of goods into the market for sale and goods carried in ferries, on the maintenance of schools, dispensaries or roads and any other tax falling under list II of the Seventh Schedule of the Constitution which the Manipur legislature may, by law, empower the District Council to levy. However, the Council exercises only nominal judicial power, which lies primarily in the hands of the State Government.

4.6.3 Scheduled Tribe Development Councils

There are also Tribe Development Councils in parts of the Northeast. These are:

1. Barak Valley Hills Tribe Development Council
2. Amri Karbi Development Council
3. Mech Kachari Development Council
4. Sarania Kachari Development Council

4.7 Ladakh Autonomous Hill Development Council (Leh and Kargil)

Ladakh, a region located in the Northeastern part of the State of Jammu and Kashmir, is a space known more for its magnificent beauty and inhospitable terrain and less for its strong movements for autonomy and self-rule. This long-standing demand was partially fulfilled in 1995 with the passing of the Ladakh Autonomous Hill Development Council Act which allowed for a measure of autonomy within the Indian State with the Darjeeling Gorkhaland Hill Council set up in 1988 as a model. The initial demand of some Ladakhi activists was, however, for Union Territory (UT) status which was denied – although the call for UT status remains a key electoral issue. The passing of the Act marked the culmination of Ladakhi assertions of autonomy that date back to the 1940s when debates about acceding to the Indian nation-state were rife but these protests escalated in 1989, under the Ladakhi Buddhist Association.

The region of Ladakh is divided into two districts: Leh and Kargil. In the course of Ladakhi protests for autonomy and development, the Indian government granted almost the entire population of Ladakh Scheduled Tribe status in 1989. A total of

eight communities were included within the list of Scheduled Tribes. According to the 2001 census, among the two districts of Ladakh, Kargil (88.3 per cent) has the highest proportion of Scheduled Tribes to the total population followed by Leh (82 per cent). The Bot tribe is the largest tribe in the Leh district while the Balti and Purigpa tribes are concentrated in Kargil district. Islam is the predominant religion of the STs (86.3 per cent) in the larger State of Jammu and Kashmir followed by Buddhist (9.3 per cent) and Hindu tribes (4.3 per cent). A majority of the Gujjar, Bakarwal and Brokpa tribes are Muslim while the Bot are primarily Buddhist and the Gaddi mainly followers of the Hindu religion. Within the Ladakh region, the Leh district is largely Buddhist with a substantial Muslim minority and Kargil district is dominated by Shia Muslims with a Buddhist minority. As part of the 1995 Act, separate Autonomous Councils were to be formed for the districts of Leh and Kargil.

The 'Reasons for Enactment' section of the law reads as follows:

“Ladakh region is geographically isolated with a sparse population, a vast area and inhospitable terrain which remains landlocked for nearly six months in a year. Consequently, the people of the area have had a distinct regional identity and special problems distinct from those of the other areas of the State of Jammu and Kashmir. The people of Ladakh have, for a long time, been demanding effective local institutional arrangements which can help to promote and accelerate the pace of development and equitable all-round growth and development having regard to its peculiar geoclimatic and locational conditions, and stimulate fullest participation of the local community in the decision making process. It is felt that decentralisation of power by formation of Hill Councils for the Ladakh Region would give a boost to the developmental activities in Ladakh and meet the aspirations of the people of the said Region. The present measure is enacted to achieve the above object.”

(LAHDC Act 1995. Gazette of India, May 9, 1995, p.19)

As a result, powers relating to the planning and implementation of development were transferred from government control at the Central and State level to the local district level Council.

Initially, only Leh district opted to form the Council and the Kargil district declined the offer. The first Council for Leh district was sworn in on September 3, 1995. In 2003, Kargil district held elections for appointment to its own Hill Development Council. The Act provides for 30 seats in total for the Council, of which twenty-six seats are filled through elections held on the basis of adult franchise from demarcated constituencies and the remaining four seats are to be filled by persons nominated by the Governor from among the main minority groups (Muslims in the case of Leh) and women. Members of the Council are to meet at least once every year. The Council must elect from among its members a Chief Executive Councillor who chooses four Executive Councillors, and together this group of five constitutes the executive body of the Council. Again, one of the four Councillors must be drawn from among the principal minorities.

The powers and functions of the Council include:

- Allotment, use and occupation of land vested in the Council (i.e. all ‘wasteland’, excludes land classified as forests)
- Formulation and review of progress of development programmes for the district
- Formulation of the budget for the district
- Formulation of guidelines for implementation of schemes at the grassroots level;
- Promotion of languages and culture of the area
- Management of un-demarcated forests and canals or water courses for agriculture;
- Tourism planning, promotion, and development
- Vocational training
- Preservation of the environment and ecology of the area
- Rights to levy and collect local taxes and fees, including on grazing, business, transport, entertainment, etc. (note, however, that there is no specific mention of tourism, one of the central planks of the economy).
- Power to hire and fire public servants except for the very highest ranks; all government employees (except in the judiciary and police) are “transferred” to the Council, although the government retains its discretion to recall them.

Clearly, considerable powers have been devolved to the local District Councils which give voice to the peoples’ longstanding aspirations for powers of autonomous decision-making on questions of cultural preservation, environmental protection, and development planning. At the same time, there are several shortcomings in the law itself as well as gaps in its implementation which have resulted in considerable disenchantment with the working of the Councils over the past twenty years.

Some of the central drawbacks highlighted are:

1. Even though the Council has the power to draw up budgets and development plans, these still require the approval of the State Government prior to implementation. Further, these plans can only be formulated within the principles of the National and State-level Five Year Plans. Together, these impediments imply that centralized structures continue to prevail as the State and National Governments have the power to reject or amend the Council’s programmes. In the 1997-98 budget, the Leh Council requested the government for 36 crore rupees in its budget but was only given 27 crores initially and later an additional five crore which still did not meet its requirements for the year.³⁴

³⁴ Martijn van Beek, ‘Hill Councils, Development, and Democracy: Assumptions and Experiences from Ladakh’, *Alternatives: Global, Local, Political*, Vol. 24, No. 4 (Oct.-Dec. 1999), pp. 444.

2. A large part of the funds for the functioning of the Council flow through the State Government which has often delayed the release of funds, thus effectively putting a halt to most of the Council's activities.
3. Members of the Council are representatives of various mainstream political parties. Therefore, when members of a particular party form the majority in the Council but are the oppositional party at the level of the State Government, the Council is side-lined and various obstacles to its functioning are created by the State administration and the government in power. Thus, the effectiveness of the Council is shaped by the National and State political interests of the day. The Ladakh region, having a sparse population and only one Lok Sabha seat, is often viewed as marginal within the framework of electoral politics and hence, ignored by successive governments at the State and Centre.
4. The Leh Council has also borne witness to struggles between the Council members and the administrative structure regarding issues of rank, privileges and powers.
5. At the local level, much resentment has arisen from the perceived domination of the Council by members of the former nobility, elites working with various non-governmental organizations, and people from Leh town. The latter has occurred even despite attempts to ensure only locals represent the various constituencies.³⁵ Some of the decisions implemented by the Leh Council have not resonated with the local people such as making it compulsory for school children to wear the traditional dress or enforce building codes in the area.³⁶
6. It has been argued that the structure of the Council further entrenches communal identities through the creation of separate Councils for the Leh and Kargil districts (on the assumption that territory is equivalent to community), while ignoring the important linkages between communities as well as divisions of gender, class, and so on within communities.

The devolution of power does not, therefore, lead to the empowerment of local communities in any automatic or linear way. The Autonomous Council model in general, does not offer genuine financial autonomy on which political autonomy can be founded. There is a huge discrepancy between the formal rules guaranteeing autonomy and the informal workings of autonomy on the ground. The Councils continue to be heavily dependent on a centralised executive and bureaucratic structure which hamper smooth and independent working of the Councils. Moreover, the powers given to the Councils are limited in several respects such that they are transformed into implementation agencies for development programmes rather than autonomous decision-making bodies. More specifically, the political economy of Ladakh is such that the local people have become heavily dependent on external forces on account of the government policies of encouraging tourism and cash

³⁵ Martijn van Beek. "Beyond Identity Fetishism: "Communal Conflict" in Ladakh and the Limits of Autonomy" *Cultural Anthropology*, Vol. 15, No. 4 (Nov. 2000), pp.545.

³⁶ Martijn van Beek. "Hill Councils, Development, and Democracy: Assumptions and Experiences from Ladakh", *Alternatives: Global, Local, Political*, Vol. 24, No. 4 (Oct.-Dec. 1999), pp. 449.

cropping, providing huge agricultural subsidies and rations (Ladakh is also a strategic border area, sharing boundaries with both Pakistan and China).

Further, while territorial autonomy is essential, there are dangers that this model may contribute to discrimination against minority communities through the creation of exclusive spaces for the numerically dominant community within a region. Even within a single community, as can be seen in the Ladakh case, the Councils have been captured by elite groups who have often implemented their own agenda for the region.

4.8 Overall Assessment of the Autonomous District Councils under Sixth Schedule

After the creation of full States comprising Sixth Schedule areas – such as in Mizoram and Meghalaya – some commentators have questioned the need for these provisions. In Meghalaya, the State Government has held the view that that these Councils ought to stick to their traditional role, which is to protect tribal culture, land and identity and refrain from engaging in developmental activities. In many cases, State Governments have deliberately impeded the functioning of the Councils, particularly through blocking the flow of funds to them. One of the serious limitations of the Sixth Schedule has been the fact that the powers given to the Councils to make legislation and implement development programmes have not been matched with the financial autonomy to follow this through. As a result, ADCs often have to depend on funds from the Central and State Governments (routed through the State Government) which are often antagonistic toward the work of the ADC. Apart from government sources, the Autonomous District Councils receive a small amount from the collection of taxes and land revenue. In many States, the issue of financial resource allocation has become a major bone of contention between the State Government and the ADCs. In Meghalaya, even the salaries of primary school teachers could not be paid regularly because of non-receipt of funds. In this case, the government claimed to have withheld the funds since the ADC in question, the Khasi Hills Autonomous District Council, was engaged in corrupt practices.³⁷ Further, there is a large gap between the approved budget and the flow of funds from the State Government to the Council, which adversely affects both the planning and the execution processes. This is in sharp contrast to arrangements made for Panchayats, which have been provided with their own Finance Commission which is empowered to periodically review the financial position and lay down appropriate principles of allocation of resources between the Panchayats and the State.

In Mizoram, the situation is somewhat different since the three ADCs in the State cover only 15 per cent of State's population (the dominant majority are Mizos). Thus, these Councils do not receive sufficient attention from the State Government. The

³⁷ Tiplut Nongbri, *Democracy, Gender and Tribes: A Critical Appraisal of India's Constitutional Policies*, *Indian Anthropologist*, Vol. 31, No. 2, 2001, pp. 4.

tribal communities have constant frictions, which adversely affect administration and developmental activities. In fact, between the years 1986 and 2000, there have been 21 resolutions submitted in the Mizoram Legislative Assembly demanding the abolition of the Chakma Autonomous District Council.³⁸ The Karbi Anglong ADC was dissolved four times between 1988 and 1998.

Furthermore, the structure of the Sixth Schedule is such that the autonomy of the ADCs is seriously restricted in several respects. For example, in Meghalaya, the autonomy of the ADC has been curtailed through the insertion of paragraph 12 A into the Constitution which states that all legislations passed by the State Government take precedence over those passed by the Councils. The powerlessness of the ADC is clear if one examines the issue of regulation of forests – one of the most important subjects entrusted to the ADC. Following a Supreme Court order in 1995-96 in the Godavarman case, felling of timber in private forests was banned irrespective of ownership status in Meghalaya. All forest-related activities could only be carried out as per the Working Plan duly approved by the Forest Department, thus completely bypassing the jurisdiction of the ADCs. Many of the functions of the ADCs are being taken over by the State Governments – in Mizoram as well as the Garo Hills, executive and judicial functions have been taken over by the Deputy Commissioner and District Magistrate, thus rendering the ADC redundant. The Commissioners coordinate development programmes and process legislation, making them extremely powerful at the district level. All the activities and departments under the control of the Councils as per the provisions of the Sixth Schedule have not yet been transferred to them and neither have parallel institutions such as the District Rural Development Agencies (DRDA).

The matters over which the ADCs have powers do not cover the entire gamut of issues pertinent to the creation of genuine autonomy. Thus, control over primary schools, markets, agriculture, forests and so on is necessary but not sufficient for tribal groups to preserve their identities and ensure the development of their districts and regions.

Considerable powers have been handed over to the Governor even in the Sixth Schedule areas which can impede the autonomous functioning of the ADCs. The Governor has the power to decide whether laws made by the State Legislature, on matters other than those over which the ADC has legislative powers, will apply to the Autonomous Districts. The decision regarding applicability of laws made by Parliament in Sixth Schedule areas is made by the Governor in the case of Assam and the President of India in the case of other Northeastern states. Moreover, all legislation passed by the ADCs requires the assent of the Governor to become law. The Governor also has the power to dissolve the ADC.

³⁸ Subir Bhaumik and Jayanta Bhattacharya, *Autonomy in the Northeast: The Hills of Tripura and Mizoram*, in Ranabir Samaddar (ed.) *The Politics of Autonomy: Indian Experiences*, New Delhi: Sage Publications, 2005.

There is a significant degree of variation in the functions devolved to various Autonomous Councils. For instance, the Bodoland Territorial Council has more power and departments compared to other Autonomous Councils of the Northeast, though the latter have been in existence for several decades more. This situation has resulted in other areas demanding greater powers and autonomy.

There is also no mandatory time limit for the reconstitution of the ADC once it is dissolved, and hence election is indefinitely postponed. Constitutionally, the Autonomous District Council should have its own Autonomous Agency, similar to the Election Commission of India or the State Election Commission to conduct the elections to the Autonomous Councils. But the Rules of 1951 empowered the State Government to conduct the Council elections through the Hills Area Department of the Assam State Government, a rule which works against the proper functioning of the Sixth Schedule.

While the Seventy-Third Amendment to the Constitution provides for the reservation of one-third of all Panchayats seats at all levels for women, the Councils, unlike Panchayats, do not have any provision for such reservation. In fact, both the Fifth and Sixth Schedules have been silent on the issue of women's representation and gender justice. As a result, women are almost completely absent from the bodies and institutions created under these provisions. It has been found that only the Bodoland Territorial Council and Autonomous District Councils of Mizoram have a system of reservation of seats for women, although the proportion of reserved seats is very small. The Autonomous District Councils of Mizoram have amended their laws relating to Village Council and District Council and decided to reserve at least one seat in every Village Council for women and two nominated seats of the District Council for women. Reservation of a certain number of seats for women representatives in the ADCs must be made mandatory in order to end the exclusion of women from these political institutions. Further, while the Sixth Schedule aims to ensure the protection of customs as well as social and religious practices of tribes, it is necessary to keep in mind the implications of this protection for gender justice. Even though protecting tribal culture is a vital task and central to the objectives of the Sixth Schedule, this is not incompatible with equality and fairness.

Another important issue to be addressed is the question of representation of minority groups within the Councils. Even those groups which are indigenous to the region – such as smaller tribal groups – do not have any role in the ADCs, a situation which must be rectified. The population composition has changed everywhere over the decades. This demographic change is no longer reflected in the representative structure of the ADCs. Unless reviewed comprehensively, the Sixth Schedule could become one of the chief sources of future conflicts in the region.

Whereas the Sixth Schedule provisions have many positive features and tribes coming under the purview have done well, there are certain other structural constraints which

have not allowed the Council to function as effectively as it should have been. Some key constraints as pointed above are non-transfer of departments to Autonomous Councils, lack of funds available with the Council, absence of provision for women and smaller tribal groups' participation in Councils which need to be suitably addressed to ensure its more vibrant functioning.

On comparing the Fifth and Sixth Schedules, it is apparent that the provisions of the Sixth Schedule have given greater powers of political autonomy to the tribes of the Northeast, as was the intention of the Constituent Assembly. On examination of the working of the provisions of the Fifth Schedule, it has become clear that the institutional mechanisms for the protection of tribes living in Scheduled Areas have failed to meet its stated goals and is in need of serious review. The Governor as well as the Tribes Advisory Councils have not been performing their constitutionally assigned roles in spirit and have failed to adequately represent the interests of tribal communities. However, several clauses of the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 and the Forest Rights Act provide for the enlargement of territorial rights and autonomy for Scheduled Tribes which must be fully implemented. On the other hand, while the provisions of the Sixth Schedule are extremely commendable, the workings of the Autonomous Councils, as has been demonstrated above, has been far from perfect and several aspects of their functioning – most notably, issues of financial and administrative autonomy, freedom from arbitrary government intervention, checks against ethnic sectarianism, greater representation for smaller tribes and women, and so on.

A restructuring of these institutional frameworks will go a long way in addressing the inequality, dispossession and injustice faced by tribal groups since self-governance, protective mechanisms, political representation and autonomous decision-making are critical components within the project to improve the socio-economic status of tribes.

4.9 Recommendations

1. During the colonial period, tribal communities inhabited areas were divided into 'excluded' and 'partially excluded' areas for purpose of administration. Such administrative arrangements have found continuation in post-independence India in the form of Sixth and Fifth Schedules of the Constitution. Laws enacted by the Governor-General in Council or Governor in Council were not automatically applicable in these areas in colonial India unless Governor General or Governor thought otherwise. In post-Independence India, this legal provision has been continued in Sixth Schedule Areas, but not in Fifth Schedule Areas. Thus, laws passed by the Parliament or State Legislature are not directly applicable in Sixth Schedule Areas unless the Governor thinks it desirable. In the Fifth Schedule Areas, laws passed by these bodies are automatically applicable, unless the Governor thinks it to be not in the interest and welfare of the tribal communities of the State. There have

been laws and policies passed by the Parliament and State Legislatures such as the Forest Conservation Act, 1980, the Wildlife Protection Act, 1972, the Panchayat Acts (prior to the passing of the 73rd Amendment in 1992), and so on which have had an adverse and detrimental impact on tribal communities. Yet the Governors have not exercised their constitutional power towards the protection and welfare of the tribal communities. This opens up two possibilities:

(i) Laws and policies enacted by the Parliament and State Legislatures should not be automatically applied in the Fifth Schedule areas (as was the case under colonial rule or as is presently the case in the Sixth Schedule areas). Its applicability should be made contingent on the discretion of the Governor who would determine its applicability or non-applicability or applicability with modifications/amendments on the advice of Tribes Advisory Council and issue a Statement of Objectives and Reasons for decisions on both applicability and inapplicability of laws and policies.

(ii) In case the above is untenable, the Governor should be mandated to take the advice of the Tribes Advisory Council and examine legislations and policies (particularly, though not exclusively, those pertaining to issues such as forests, land acquisition, conservation, mines and minerals, health and education) passed by the Parliament or State Legislatures and the implications of the same on tribal welfare. A mechanism for such examination and action should be clearly stated and established.

2. Actions taken by the Governor for safeguarding the interests of tribal communities should be clearly mentioned in the annual Governor's Reports submitted to the President. The Governors must be mandated to ensure the timely submission of these reports. To this end, the Governor's office must be adequately assisted by specially set up competent and dedicated team in the form of Governor's Cell for Scheduled Tribes (as has already been initiated in some States).

3. The Tribes Advisory Council is an integral part of the administrative structure of the Fifth Schedule. Currently, the TAC consists of 20 members, of which two-thirds is comprised of elected members in the State Legislature belonging to the Scheduled Tribes. The rest are nominated members who generally tend to be government officials working in Ministries and Departments associated with tribal development. In this regard, we recommend that:

(i) There needs to be a radical restructuring of the composition of the TAC. Instead of two-thirds elected members from the State Legislature, this should be restricted to half the members of the TAC. Moreover, these elected representatives must come from different political parties, rather than only from the ruling party. The remaining one-half should be comprised of Chairpersons of the district Panchayat bodies (or chairpersons of the

Autonomous Council, wherever established) of the Scheduled Areas on a rotational basis.

(ii) Tribes Advisory Council should be empowered, made active and responsible for the tribal affairs in the State through the following measures:

- The scope and responsibilities of TAC should be widened to transform it into the Tribes Advisory, Protective and Developmental Council. Constitutional provisions, laws, policies, and administrative matters pertaining to the Scheduled Tribes must come under its ambit.
- The tribal development plan of a State and its outlay should be approved by the TAC before it is placed before the Legislative Assembly.
- In view of the serious responsibility placed on the TAC, it should be made compulsory for the Council to meet at least four times a year.
- The Tribal Welfare Department should be made accountable to the TAC. It should present its annual plan, budget and performance report to the TAC and receive its approval for the next year.
- The agenda for the TAC meetings should be prepared through due consultation with the members.
- The Governor should be made responsible for the overall functioning of the TAC.

4. The provisions of the Sixth Schedule provide considerable space for autonomy and self-governance. Through the Autonomous Councils, tribals have the opportunity to enact legislations, execute programmes and adjudicate at a scale larger than their individual villages. Such a provision has helped tribes of the Northeast to protect their habitat, land, forests, natural resources, culture and identity. They have not experienced displacement and land alienation on the scale that tribes in 'mainland' India have. In view of these powers of political autonomy, the tribal communities in the Northeast region have fared much better in respect of socio-economic, educational and health status.³⁹ In contrast, the tribes in mainland have fared miserably in all these spheres. Hence, there is an urgent need for extending the pattern of the Sixth Schedule in the form of Autonomous Councils in the Fifth Schedule areas as has been provided for in the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996. The specific provision notes that, "the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas".

This pattern would provide tribal areas with an institutional structure that mediates between the State Government and hamlet-level Gram Sabha. There are various forms

³⁹ There are several other reasons for this situation, most importantly, the relative homogeneity of the population in Northeastern states, a tribal majority in many states and a history of missionary activity. However, the provisions of the Sixth Schedule have also made a significant contribution.

of Autonomous Councils in the Sixth Schedule areas. These are represented by Meghalaya, Mizoram, Tripura and Assam. On the question of which pattern would best suit the 'mainland' tribal regions should be seriously deliberated and worked upon by the States with Fifth Schedule areas.

5. There are a large number of States wherein tribes form a sizeable population in blocks or villages, for example, in States like West Bengal, Kerala, Tamil Nadu, Karnataka, Goa, etc. Tribal areas in these States must be brought under the ambit of Scheduled Areas.

6. There are various impediments to the smooth and inclusive working of the Autonomous Councils in Sixth Schedule areas which must be addressed. In order to do so, we propose the following:

- Autonomous Councils must be covered under State Finance Commission that is empowered to review periodically the financial position and lay down appropriate principles of resource distribution between State and the Autonomous Council. Funding should not be left to arbitrary discretion of the State Governments.
- The ADC should be reconstituted within six months of its dissolution.
- There should be provision for reservation for tribal women (one-third) as well as smaller tribal groups in the ADCs and other political institutions.
- Traditional political institutions at the village/hamlet level should be formally recognized by the State.

5. Livelihoods and Employment Status

5.1 Introduction

Traditionally, the tribes in India pursued an economy, which was closer to nature, and used indigenous technology. This is reflected in their dependence on forests and other natural resources available in their habitat. This does not mean that the traditional tribal economy, was in any way, monotonous. While some tribal communities have adopted a way of life, similar to the neighboring non-tribal communities, there are other tribal groups, whose livelihoods are characterized by (a) forest-based livelihoods, (b) pre-agriculture level of technology, (c) a stagnant or declining population (d) extremely low literacy and (e) a subsistence level of economy. A variety of economic activities were pursued by the tribes of India, depending on the availability of resources in their respective habitats.

5.2 Traditional Economy and Livelihoods

In a study on traditional economic activities pursued by the tribes of India, Vidyarthi and Rai,⁴⁰ have delineated the following categories:

- i) Hunting,
- ii) Hill-cultivation,
- iii) Plain agriculture,
- iv) Simple artisan,
- v) Pastoral and cattle-herding,
- vi) Folk-artists, and
- vii) Agricultural and non-agricultural labour.

Traditional tribal economy was largely a combination of several types of activities. For example, hill cultivators and plain agriculturists, were also occasionally hunting and gathering to supplement their income. Similarly, pastoralists were engaged in agriculture to meet their basic food requirements. Therefore, the above typology of economy is only indicative of the main activities.

However, hunting and foraging have been the main sources of traditional livelihoods for several tribes, including the Birhor, the Hill Kharia, the Pahariya, the Birijia, the Korwa, the Chenchu, the Kurumba, the Paliyan, the Kadar, the Jarawa, the Onge and the Sentinelese. With reduced forest cover and implementation of Wildlife Protection Act, hunting and foraging are on the decline among these tribes.

⁴⁰ Vidyarthi, L.P. and B.K. Rai. 1985. *The Tribal Culture of India*. New Delhi: Concept Publishing Company.

Hill cultivation, variously known as shifting cultivation, slash-and-burn cultivation, is popularly known as *podu* or *jhum* among the Indian tribes. Tribal people inhabiting the hills of Assam, Meghalaya, Manipur, Tripura, Odisha, Andhra Pradesh, Madhya Pradesh and Chhattisgarh engage in hill cultivation. The Garo, the Tripuri, the Chakma, the Mog, the Naga, the Maler, the Hill Kharia, the Juang, the Paudi Bhuyian, the Koya, the Konda Reddi, the Baiga, the Maria Gond and many other tribal communities continue to practice hill cultivation. However, this is also in decline, due to land shortage and increase in population. In addition, the Government policy, dissuades the tribes from practicing shifting cultivation.

Plain land agriculture is the means of livelihood for most of the tribes, even though it is not highly productive. The Khasi and Jaintia, the Khasa and Tharu, the Kinnaur, the Bhumij, the Kora, the Bhuyian, the Santal, the Munda, the Ho, the Oraon, the Baiga, the Gond, the Mina, the Garasia, the Bhil, the Warli and the Thakur are plain land agriculturists.

A number of tribes subsist on crafts and cottage industries like basket and rope making, tool making (iron and wooden), spinning and weaving, metal work, iron work, etc. The Gujjar and Kinnaur (wood work), the Irula, Thoti, Kanjar and Kolam (basket and rope making), the Lohar and Karmali (iron agricultural implements), the Chik-Barik (hand woven cloth), the Mahali (basket and bamboo products), the Godulia Lohar, Mahali, Asur and Agaria (iron smith) and many other artisan groups largely manage their livelihoods as crafts persons.

The Toda, the Gujjar, Bakarwal and Gaddi, the Golla, Kuruba and Lambada, the Kisan and Nagesia, the Rabari and Sansi, etc. are pastoralists and animal husbandry is their main occupation. Decrease in pastures and sedentarisation have resulted in loss of pastoralism and animal-breeding among these tribes.

There are certain tribes in India, which depend upon folk arts such as singing, barding and dancing, other activities such as tattoo-making, acrobatics and magic/trickery. Tribes namely Nat and Sapera, Kela, Pradhan and Ojha, Madaria, Pamula and Garadi are specialists in various folk arts.

Several landless and marginal tribal households are engaged as agricultural labour. With the opening of mines and industries in tribal inhabited regions, tribes in the surrounding areas have taken up non-agricultural labour as the primary source of livelihood. Some tribes from Jharkhand and Chhattisgarh have migrated to the tea estates in Northeast India and to Andaman and Nicobar Islands, in search of unskilled employment.

In the pre-independence period, tribes from Jharkhand, Odisha and Chhattisgarh, such as the Munda, the Oraon, the Santhal and others had migrated to the sprawling tea gardens of Assam as indentured labour. In post-independence era, they are not included in the list of Scheduled Tribes in Assam. They are among what are popularly called the “Tea Tribes”, numbering about 60 lakhs. They have been marginalised due to centuries of exploitation and denial of their basic rights.

Over the decades, the tribal economy and the livelihood strategies have undergone substantial changes. Since the tribes were traditionally dependent on natural resources, the change was all the more visible due to the depletion of resources. In post-independence period, the rapid phase of urbanization and industrialization alienated the tribes from their traditional natural resource base and forced them to search for newer livelihood options. Increase in population among some tribes, lower availability of food and alienation from natural habitats, made the tribes dependent on urban markets. Many of them left their homes and migrated to urban areas, in search of income and employment. As a result, the already vulnerable tribes were exposed to all kinds of exploitation and marginalization in the new, unfamiliar urban space. Those who continued to live in their original habitats diversified their occupations to ensure their sustenance.

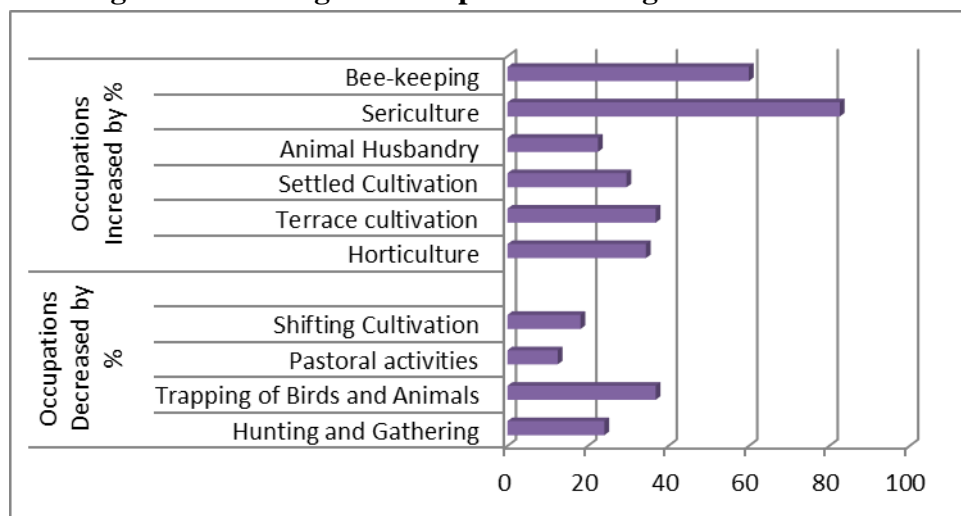
The shift in tribal economy and diversification of occupations has been corroborated in the People of India report by the Anthropological Survey of India. The report maintains that “... the number of communities practicing hunting and gathering has declined by 24.08 percent, as forests have disappeared and wildlife has diminished. Ecological degradation has severely curtailed the related traditional occupations. For instance, trapping of birds and animals has declined by 36.84 percent, pastoral activities by 12.5 percent, and shifting cultivation by 18.14 percent. However, there is a rise in horticulture (34.4 percent), terrace cultivation (36.84 percent), settled cultivation (29.58 percent), animal husbandry (22.5 percent), sericulture (82.6 percent), and bee-keeping (60 percent). Many of the traditional crafts have disappeared and spinning, in particular, has suffered (25.58 percent). Related activities such as weaving (3.32 percent), dyeing (33.34 percent) and printing (100 percent) have similarly suffered. Skin and hide work as also stone carving has declined.”⁴¹

The report further states that, in tribal areas “...business has gone up by 77.46 percent, trade by 42.14 percent and industry by 100 percent. There is a sharp rise in the number of Scheduled Tribes employed in Government and private services, self-employment, etc. The number of Scheduled Tribes employed in mining and masonry (60 percent) has gone up steeply which suggests a new mobility.”⁴²

⁴¹ Singh, K.S. 1997. *The Scheduled Tribes*. New Delhi: Anthropological Survey of India.

⁴² *Ibid*

Figure 5.1: Change in Occupations among Scheduled Tribes



Source: Census of India, 1981

The national agencies entrusted with the responsibility of collecting and analyzing data on Scheduled Tribes of India, like the Census of India and the NSSO focused on categorizing occupations as cultivators, agricultural labourers and other non-farm workers (which includes workers of all kinds). Enumeration of Scheduled Tribe-specific occupations is not carried out and hence observing changes and shifts in the occupation patterns over time among tribes is difficult.

5.3 Land Ownership

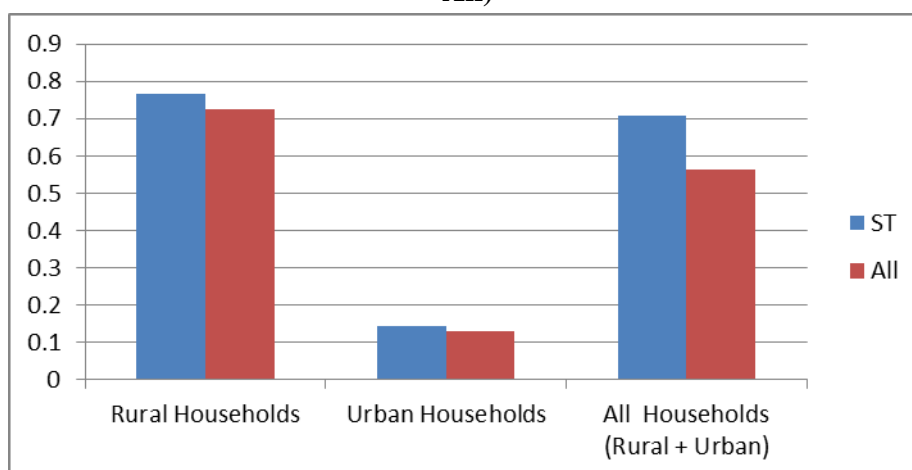
The data on Household Ownership Holdings (HOH) with respect to different social groups, obtained through the 59th round of survey by the NSSO (Table 5.1), reveals that the percentage share of HOH among Scheduled Tribes compared to an all-India average is slightly better. When the average area owned per household in India is 0.563 hectare, it is 0.708 for Scheduled Tribes. In rural areas also, while the all-India average of land owned per household is 0.725 hectares, the Scheduled Tribes owned 0.767 hectares per HH. In urban areas also the trend is similar, as Scheduled Tribe households own an average of 0.145 hectares of land, which is higher than the all-India average of 0.130 hectares.

Table 5.1 also indicates that even the relation between percentage of Scheduled Tribe households and proportion of land owned by them is in favor of Scheduled Tribes. It is observed that about 8.46 percent of Scheduled Tribe households own 10.65 percent of land, both rural and urban combined. In rural areas, 10.55 percent of Scheduled Tribe households own 11.15 percent of land, while in urban areas, 2.91 percent of Scheduled Tribe households own 3.25 percent of land. This clearly indicates that Scheduled Tribe households own comparatively more land than others at all levels including rural, urban and rural-urban combined (Figure 5.2).

Thus, in respect of Scheduled Tribes in 2003, the land ownership and the intra-class concentration ratio was not adverse (the share of area being higher than the share of holdings) in comparison to all social groups, and their average size of area owned was higher than that of all groups. This may be due to the restrictive land transfer regulation legislations, applicable to the Scheduled Areas in different states.⁴³ However, it must be noted that alienation of tribal lands may not be fully reflected in the records. Hence, there may be a discrepancy between land ownership on record and actual land ownership of tribal people.

Historically Scheduled Tribes had a customary ownership over forest as well as land closer to their settlements. Since reclamation of forest did not warrant permission from authorities, Scheduled Tribe households reclaimed forest land as per their requirements. Therefore, it is not unusual for the Scheduled Tribe households to own more land as compared to other social groups.

**Figure 5.2: Distribution of Land Ownership
(Average Area (hectares) owned per Household among Scheduled Tribes and All)**



⁴³ For example, in Andhra Pradesh, the AP Scheduled Areas Land Transfer Regulation (APSALTR) Act of 1959 and the amended enactment (LTR, I of 1970), provided that the non-STs could transfer their lands only to STs or to the government, but could not sell them to other non-STs.

Table 5.1: Distribution of Land Ownership among Scheduled Tribes and All, 2003

S.No.	Item	Scheduled Tribe	All Others
	Rural Households		
1	Estimated No. of households (in 000)	15592	147838
2	Percentage of households	10.55	100.00
3	Total Area of Land (in 000 ha)	11952	107228
4	Percentage Area of Land Owned	11.15	100.00
5	Average Area (hectares) Owned per Household	0.767	0.725
	Urban Households		
1	Estimated No. of households (in 000)	1616	55508
2	Percentage of households	2.91	100.00
3	Total Area of Land (in 000 hectares)	235	7212
4	Percentage Area of Land Owned	3.25	100
5	Average Area (hectares) Owned per Household	0.145	0.130
	All Households (Rural + Urban)		
1	Estimated No. of households (in 000)	17208	203346
2	Percentage of households	8.46	100.00
3	Total Area of Land (in 000 hectares)	12187	114440
4	Percentage Area of Land Owned	10.65	100.00
5	Average Area (hectares) Owned per Household	0.708	0.563

Source: NSSO., Household Ownership Holdings in India, 2003, Report No. 491(59/18.1/4), November 2006, p.23

5.3.1 Distribution of Ownership Holdings

This section presents the distribution of ownership holdings⁴⁴ among the households of Scheduled Tribes and all households at the National level. Table 5.2 gives details of distribution of Households Ownership Holdings at all-India level among rural, urban, and combined areas for Scheduled Tribes and all other groups for 2002-03.

In rural areas, a substantial proportion of Scheduled Tribes own very little land. Among them, 12.81 percent of the households own only up to 0.002 hectares of land, while the aggregate of all groups under this category is 10.0 percent. In the marginal category, among Scheduled Tribes 63.16 percent of households own 26.96 percent of land in rural areas. It shows that the marginal category among Scheduled Tribes is less equitable⁴⁵ than the all social groups. Significantly, the zero and marginal categories together account for 75.97 percent among Scheduled Tribes, while it is 79.60 percent for all households. In small and above categories, the relative share of area is greater than their respective shares of households for Scheduled Tribes in rural areas.⁴⁶

⁴⁴ Zero category means the household that owns only up to 0.002 hectares of land. Marginal category is the one which holds land up to 1 hectares. This implies that the Marginal category is inclusive of the Zero category. The household under the Small category owns land between 1 and 2 hectares. In Semi-medium category the household owns land between 2 to 4 hectares. Medium category household owns from 4-10 hectares of land. The Large category owns land above 10 hectares.

⁴⁵ The inter-category concentration ratio ($\frac{\text{percentage area}}{\text{percentage holdings}} \times 100$) measures the equitable distribution in each category. If it is nearer to zero, it is more inequitable. Among Scheduled Tribes, it is 42.7 percent.

⁴⁶ That is inter-class concentration ratios are higher than 100, showing skewed distribution, which is seen among small and above classes.

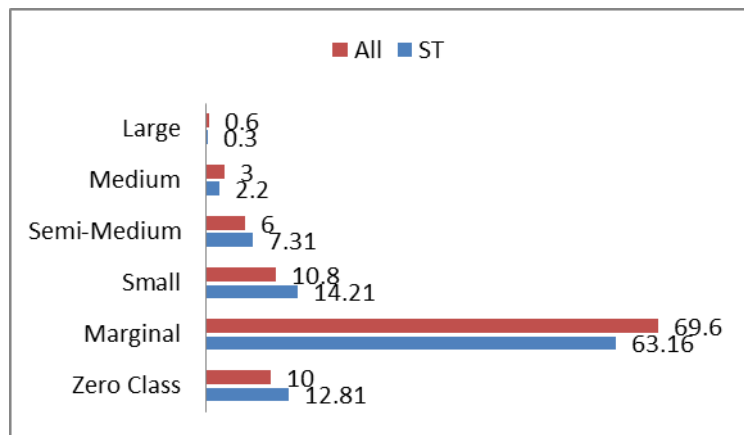
Table 5.2: Distribution of Land Ownership Holdings among households of Scheduled Tribes and All; Average Size by Major Classes - All-India

S.No.	Size Class	Percent Households		Percent Owned area		Average area per HH (Hectares)	
		ST	All	ST	All	ST	All
Rural							
0	Zero Class	12.81	10.00	0.00	0.01	0.00	0.00
1	Marginal	63.16	69.60	26.96	22.60	0.33	0.24
2	Small	14.21	10.80	25.18	19.95	1.36	1.37
3	Semi-Medium	7.31	6.00	24.57	21.41	2.58	2.64
4	Medium	2.20	3.00	15.37	22.72	5.35	5.60
5	Large	0.30	0.60	7.93	13.32	20.25	16.41
	Total (Rural)	100.0	100.0	100.0	100.0	0.77	0.74
Urban							
0	Zero-Class	54.50	48.60	0.06	0.09	0.00	0.00
1	Marginal	41.50	48.20	30.67	22.66	0.11	0.06
2	Small	1.90	1.50	18.40	17.29	1.44	1.37
3	Semi-medium	1.50	1.10	29.51	24.81	2.92	2.68
4	Medium	0.60	0.50	21.36	24.55	5.28	5.83
5	Large	0.00	0.10	0.00	10.60		12.59
	Total (Urban)	100.0	100.0	100.0	100.0	0.15	0.12
<u>Rural and Urban combined</u>							
0	Zero-Class	16.73	20.52	0.01	0.01	0.00	0.00
1	Marginal	61.13	63.77	27.03	22.60	0.31	0.20
2	Small	13.06	8.27	25.05	19.80	1.36	1.37
3	Semi-medium	6.76	4.66	24.66	21.61	2.59	2.64
4	Medium	2.05	2.32	15.48	22.82	5.35	5.61
5	Large	0.27	0.46	7.77	13.16	20.25	16.19
	Total (R+U)	100.0	100.0	100.0	100.0	0.71	0.57

Source: NSSO (2006), November, pp.A-15 and A-27

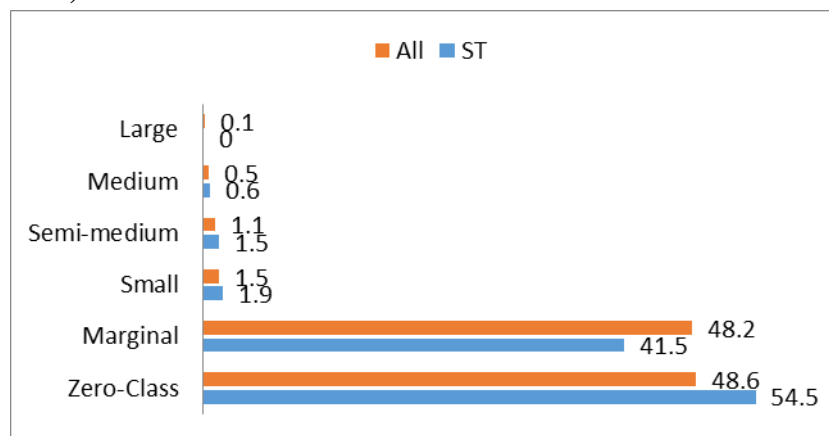
In the marginal category, the average area owned by Scheduled Tribes is 0.33 hectares, but it is only 0.24 hectares among all social groups. Among Scheduled Tribes, the average area owned by small, semi-medium and medium holders, is almost equal to that of the all social groups. Only among large holders, the average size of land owned by Scheduled Tribes is higher than that of the all social groups.

Figure 5.3: Distribution of Ownership Holdings among households (percent) in Rural Areas



In urban areas, 54.5 percent of Scheduled Tribes are in zero category, and 41.5 percent of them are in marginal category, whereas among all social groups 48.6 percent are in zero category and 48.2 percent are in marginal category. If we consider zero and marginal categories together, 96 percent of Scheduled Tribes and 96.8 percent of all social groups falls under this group. Therefore, as far as the distribution of ownership holdings are concerned, there is parity between Scheduled Tribes and all social groups taken together.

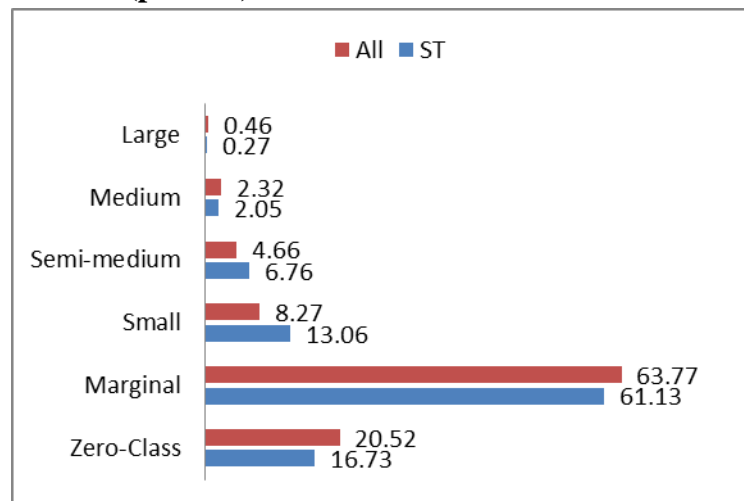
Figure 5.4: Distribution of Ownership Holdings among households (percent) in Urban Areas



In rural and urban areas combined, 16.73 percent of Scheduled Tribe households own 0.002 hectares of land, and 61.13 percent of them own up to two hectares, whereas among all social groups, 20.52 percent of households are in zero category and 63.77 percent are in marginal category. Similarly when we consider zero and marginal categories together, 77.86 percent of Scheduled Tribe HH's and 84.29 percent of households from all social groups fall in this category. Regarding average area per household, among Scheduled Tribes it is nearly equal to that of all social groups,

except in case of large category of ownership holding. The trend appears to be similar to other land ownership of other households in the rural areas.

Figure 5.5: Distribution of Ownership Holdings among households (percent) in Rural and Urban Areas



5.3.2 Operational Holdings

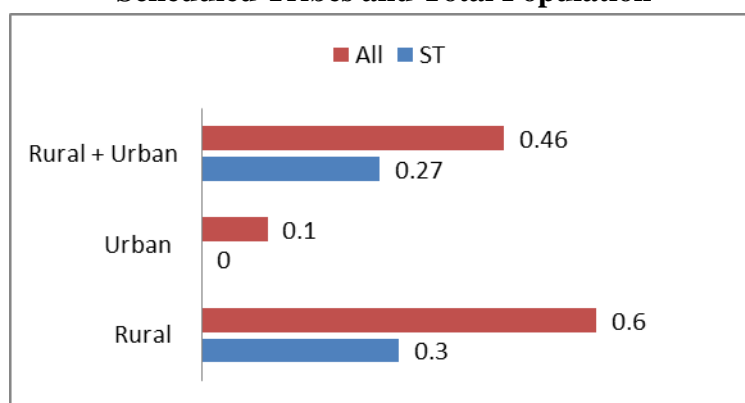
For the calculation of Operational Holdings (OH), data from Agricultural Censuses is used, as information on Scheduled Tribes is available for comparison with all-India level data from the quinquennial survey of 1980-81 to 2010-11. The data are not on the basis of households but on the basis of technical unit of operation, and if the joint operational holdings are negligible, the Operational Holdings turns out to be on the basis of Household Operational Holdings (HOH) (Table 5.3).

Table 5.3: Operational Holdings (Quinquennial) All-India Level

S.No	Item	1980-81	85-86	90-91	95-96	2000-01	2005-06	2010-11
(i) No. and Area of Operational Holdings								
Scheduled Tribes								
1	Holdings ('000)	6854	7648	8670	9523	9404	10343	11993
2	Operates Area ('000 hectares)	16704	17234	17909	17524	16525	16929	18294
3	Average area operated (hectares)	2.44	2.25	2.07	1.84	1.76	1.64	1.53
All Social Groups								
1	Holdings ('000)	88883	97155	106637	115580	119931	129222	137757
2	Operates Area ('000 hectares)	163797	164562	165507	163355	159436	158323	159180
3	Average area operated (hectares)	1.84	1.69	1.55	1.41	1.33	1.23	1.16
(ii) Percent Shares of No. and Area of Operational Holdings								
Scheduled Tribes								
1	Holdings (percent)	7.71	7.87	8.13	8.24	7.84	8.00	8.71
2	Operates Area (percent)	10.20	10.47	10.82	10.73	10.36	10.69	11.49
All Social Groups								
1	Holdings (percent)	100.00	100.00	100.00	100.00	100.00	100.00	100.00
2	Operates Area (percent)	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Source: Quinquennial Surveys of Agricultural Censuses in India, 1980-81 to 2010-11

Figure 5.6: Distribution of Large Land Holdings among households (percent) of Scheduled Tribes and Total Population



Analysis of Table 5.3 reveals that from 1980-81 to 2010-11, the percentage share of Operated Area (OA) for Scheduled Tribes is higher than the Operational Holdings (OH). In 1980-81, the percentage share of OA was 10.2, which was higher than that of OH by 2.49 percentage points. Similarly, the difference between the percentage shares of OAs and OHs for 1985-86, 1990-91, 1995-96, and 2000-2001 were 2.6, 2.69, 2.49, and 2.52 percentage points respectively. However, the difference of

percentage shares between OAs and OHs for 2005-6 and 2010-11 have further widened to 2.69 and 2.78 respectively. With regard to the percentage share of OHs as well as OAs for Scheduled Tribes between 1980-81 and 1995-96, they have increased consistently with a marginal decrease in 2000-2001 and 2005-06, but again rising sharply in 2010-11, as evidenced from the Figures 5.7, 5.8 and 5.9.

Figure 5.7: Percent Share of Operational Holdings and Operational Areas

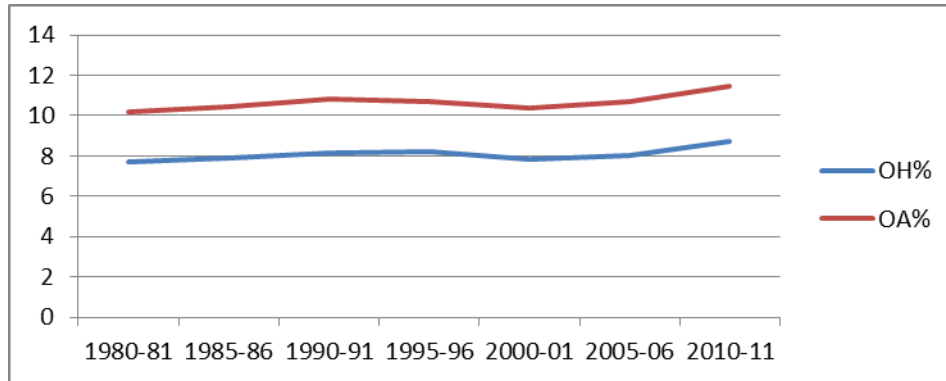


Figure 5.8: Percent Share of Operational Holdings and Operational Areas among Scheduled Tribes

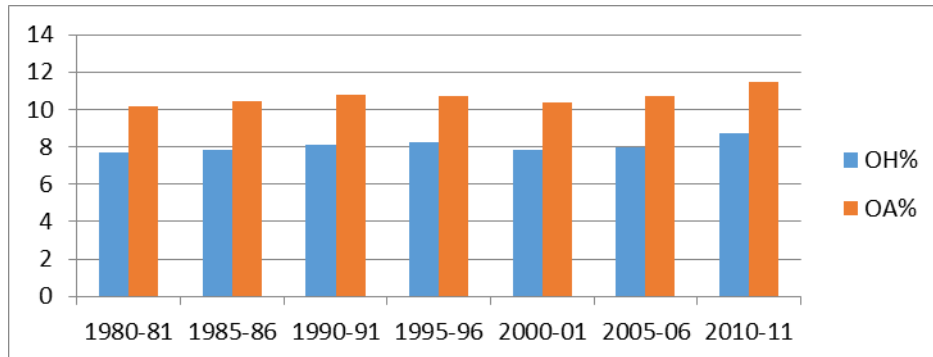
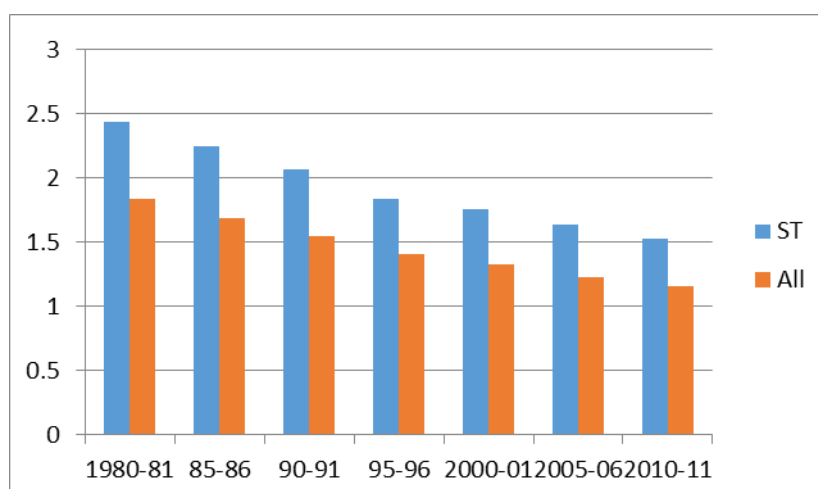


Figure 5.9: Operational Holdings
(Average area operated (hectares) among Scheduled Tribes and All
from 1980-81 to 2010-11)



The data from Agriculture Census indicates that the OHs and OAs decreased marginally in 2000-01 and 2005-06, and increased in 2010-11, both for the Scheduled Tribes as well as at the all-India level. This was due to the fact that, since the formation of the State of Jharkhand in the year 2000, it was not included in the agriculture censuses for 2000-01 and 2005-06. It was included in the agriculture census of 2010-11 for the first time, for which there was rise in both OHs and OAs, both for Scheduled Tribes and at all-India level. Jharkhand has a Scheduled Tribe population of 86,45,042. In other words, it comprises of 26.20 percent of the total population of the State or 8.29 percent of the total Scheduled Tribe population of the country. Further, according to Dr. Vidya Dhar, DDG and Agriculture Census Commissioner, in the State of Rajasthan, the OA increased as the Government of Rajasthan distributed waste land (cultivable) among the landless households during 2010-11. The other reason attributed to the fluctuation in OAs, is due to the collection of data in North East India on a sample basis and because of *jhum* cultivation in these States.

As far as the average OAs is concerned, the Scheduled Tribes have larger OAs compared to all social groups. For example, in 1980-81, while the Scheduled Tribes had the average OA of 2.44 hectares, the average OA for all social groups was 1.84 hectares. Similarly, in 2010-11, the OAs for Scheduled Tribes and all social groups were 1.53 hectares and 1.16 hectares, respectively.

Although Scheduled Tribes are better placed compared to all social groups with regard to their possession of OHs and OAs, their access to cultivated land is on decline over the years. This has been evidenced from the NSSO reports of 2004-05 and 2010-11. Table 5.4 reveals that while there is a percentage increase of Scheduled

Tribes who are landless and 0.40 hectares of ownership in zero and small categories, there is percentage decrease in all other categories of landholdings from 0.41 hectares to above 4 hectares during 2004 and 2010.

Table 5.4: Percentage Changes in Access to Cultivated Land by Scheduled Tribes, 2004-2010

State	Class and Size of holdings (Hectare)					
	0.00	0.01-0.40	0.41-1	1-2	2-4	Above 4
Chhattisgarh	-0.8	16.5	6.7	-3.2	15.8	-1.5
Jharkhand	8.2	-4.9	3.2	-7.7	0.9	0.3
Madhya Pradesh	1.4	6.3	-2.8	-4.1	-0.1	-0.6
Odisha	1.5	8.8	6.5	1.4	-0.6	-0.7
All India	3.6	2.1	-1.7	-2.7	-0.6	-0.1

Source: Calculated from NSSO Report 516, 2004-05, p.70 and NSSO Report 543, 2010-2011, p.74.

5.4 Household Assets and Amenities

The assets possessed by households are used as indicators of their socio-economic status. The data on household assets among Scheduled Tribes and all social groups is obtained from the Census of India in 2001 and 2011 (Table 5.5 and Figure 5.10). Among all social groups, the possession of radio/transistor and landline phone decreased from 2001 to 2011.

The possession of TV's, bicycles, scooter/motor-cycle/moped, and car/jeep/van increased during the same period. In particular, among Scheduled Tribes, 21.77 percent possessed radio/transistor in 2001 and their share decreased to 13.96 percent in 2011. But possession of TVs rose from 12.06 percent in 2001 to 21.51 percent in 2011. This trend of decrease in the share of radio/transistors and increase in the share of TV's indicate that the radio/transistors have been replaced by TVs.

With regard to possession of landline telephone among Scheduled Tribes, it decreased from 2.51 percent in 2001 to 1.95 percent in 2011, but the possession of mobiles among Scheduled Tribes was 30.81 percent in 2011. The possession of telephone came down drastically among all social groups from 9.14 percent in 2001 to 3.93 percent in 2011, whereas the possession of mobiles was 52.45 percent in 2011.

Table 5.5: Assets possessed by the Households among Scheduled Tribes and all Social Groups

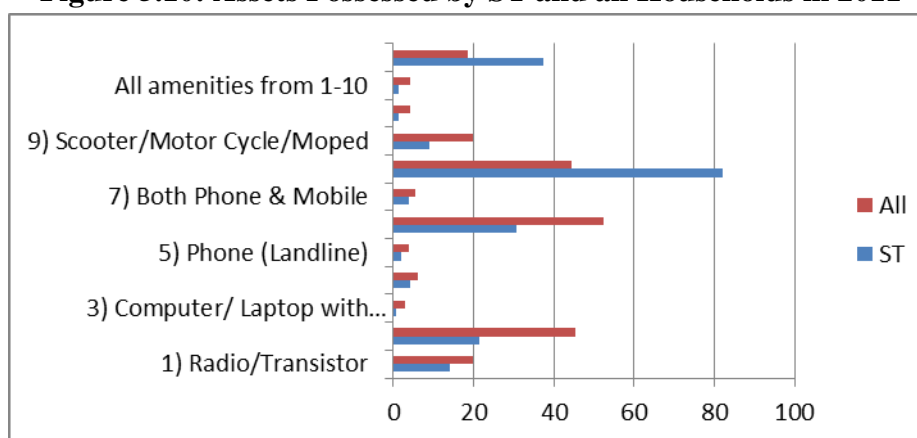
Social Groups	Radio/Transistor	TV	Computer/Lap top		Telephone/ Mobile		Both	Bicycle	Scooter/Motor cycle/Moped	Car/Jeep/Van	TV, Computer/ Laptop, Telephone/ Mobile & Scooter/ Car	None of the Assets **
			With internet	Without internet	Landline only*	Mobile only						
2011												
ST	13.96	21.51	0.82	4.35	1.96	30.81	3.76	82.17	8.93	1.46	1.21	37.42
All	19.79	45.31	2.80	6.21	3.93	52.45	5.59	44.51	19.84	4.08	4.12	18.55
2001												
ST	21.77	12.06	-	-	2.51	-	-	32.03	4.13	0.89	-	54.03
All	35.12	31.59	-	-	9.14	-	-	43.67	11.71	2.50	-	34.48

* Telephone of 2001 is taken as identical with Landline of 2011

**households with none of the Items from Radio/Transistor to Car/Jeep/Van

Source: Census of India, 2001 and 2011

Figure 5.10: Assets Possessed by ST and all Households in 2011



Source: Census of India, 2011

Though there is an indication of increase in possession of bicycles among all social groups from 2001 to 2011, the increase was very high among Scheduled Tribes rising from 32.03 percent in 2001 to 82.17 percent in 2011, while the increase was marginal among all social groups (from 43.67 percent to 44.51 percent). During this period, the States of Andhra Pradesh, Jharkhand, Madhya Pradesh, Odisha, Assam and Tamil Nadu, distributed free bicycles to students belonging to BPL families, including Scheduled Tribes. This could be a reason significant rise in bicycle possession among Scheduled Tribes.

Table 5.6 reveals that Scheduled Tribes possessed fewer amenities, and the households with no amenities are highest among Scheduled Tribes. The percentage of households with ‘no amenities’ decreased from 2001 to 2011 among all social groups. This decrease was from 54.03 percent to 37.42 percent and 34.48 percent to 18.55 percent among Scheduled Tribes and all social groups, respectively. This indicates that the possession of the assets among Scheduled Tribes improved over the decade (16.61 percentage points) slightly more than all groups (15.93 percentage points) between 2001 and 2011. Over the years, many young Scheduled Tribe persons seasonally migrate to urban centers to work in construction and service sectors. It is likely, when they return home, they carry with them the modern gadgets that contribute their higher share of possession of assets. In any case, the households without any of the assets among Scheduled Tribes (37.42 percent) is twice that of all social groups (18.55 percent) in 2011, clearly indicating the lack of affordability.

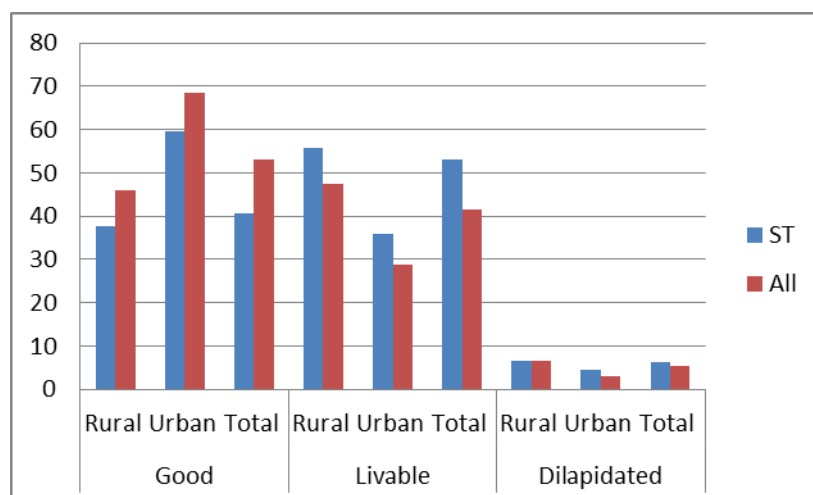
Examining the data on condition of houses among Scheduled Tribe households, 40.62 percent occupied good houses, 53.13 percent of them are in livable condition and 6.25 percent are under dilapidated condition. In the case of all social groups, 53.11 percent lived in good houses, 41.54 percent of them in livable condition, and 5.35 percent are in dilapidated condition. The comparison of the condition of houses between Scheduled Tribe and all social group households reveals that the houses of Scheduled Tribes are in bad condition. Most of the tribes in urban areas live in slums, in makeshift homes, houses which are more dilapidated compared to the average of all social groups (Table 5.6).

Table 5.6: Condition of Houses Occupied by Scheduled Tribes and Other Households, 2011 Census

Condition	Good		Livable		Dilapidated	
	ST	All	ST	All	ST	All
Rural	37.61	45.91	55.85	47.58	6.55	6.51
Urban	59.69	68.44	35.93	28.67	4.39	2.88
Total	40.62	53.11	53.13	41.54	6.25	5.35

Source: Houses and Household Amenities for Scheduled Tribes, <http://tribal.nic.in/Content/StatisticsDivision.aspx>

Figure 5.11: Condition of Houses Occupied by Scheduled Tribes and Other Households, 2011 Census



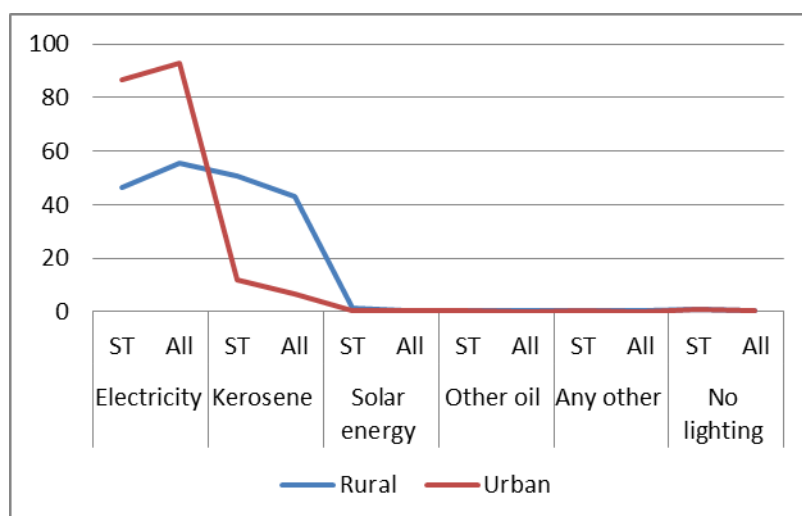
In rural areas, 46.20 percent of Scheduled Tribe households and 55.30 percent of all social groups use electricity for lighting. The use of electricity among Scheduled Tribes is about 9 percentage points less than that of all social groups (Table 5.7). However, kerosene is the main source of lighting for 50.93 percent of Scheduled Tribe households, which is 7.77 percent points higher than that of 43.16 percent of all social groups, and 4.73 percent points higher than the use of electricity among Scheduled Tribes. Interestingly, the use of solar energy among Scheduled Tribe households is 0.66 percent points, higher than that of all groups. Importantly, 1.03 percent of Scheduled Tribe households live with no lighting which is 0.5 percent points higher than the 0.53 percent of all social groups. In urban areas, though a majority of 86.47 percent of Scheduled Tribe households uses electricity for lighting, it is 6.21 percentage points less than the usage of 92.68 percent of all social groups. 11.89 percent of Scheduled Tribe households use kerosene, which is 5.41 percentage points higher than that of all groups.

Table 5.7: Main Source of Lighting among Households of Scheduled Tribes and All, 2011 Census

Source	Electricity		Kerosene		Solar energy		Other oil		Any other		No lighting	
	ST	All	ST	All	ST	All	ST	All	ST	All	ST	All
Rural	46.20	55.30	50.93	43.16	1.21	0.55	0.31	0.24	0.32	0.22	1.03	0.53
Urban	86.47	92.68	11.89	6.48	0.29	0.22	0.25	0.12	0.25	0.17	0.85	0.34

Source: Houses and Household Amenities for Scheduled Tribes, <http://tribal.nic.in/Content/STATISTICSDivision.aspx>

Figure 5.12: Main Source of Lighting among Households of Scheduled Tribes and All, 2011 Census



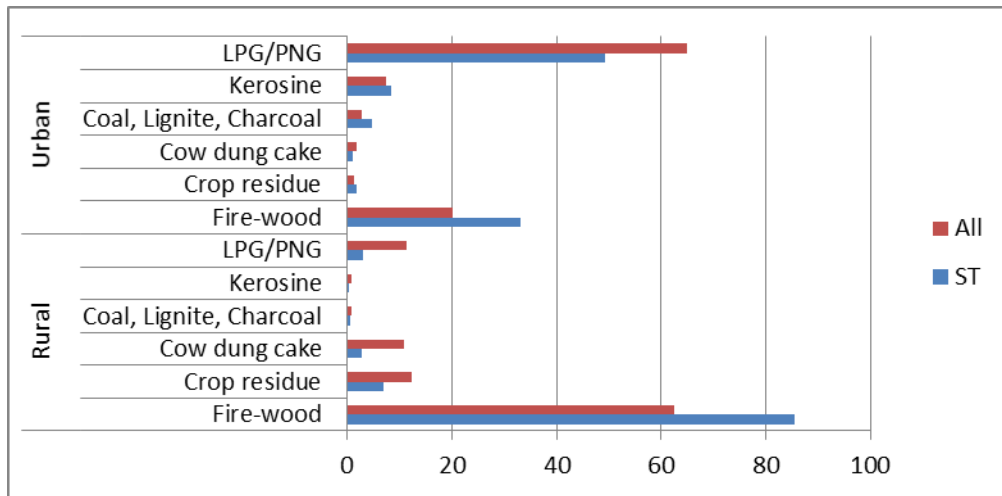
In rural areas, major fuel used for cooking is fire-wood, and more so for Scheduled Tribes, and is used by 85.53 percent of households. Among all social groups 62.54 percent of households use firewood, which is 22.99 percentage points less than that of Scheduled Tribes. Crop residue is the second important source of fuel with 6.93 percent of Scheduled Tribes and 12.33 percent of all social group households using it. A considerable percentage of Scheduled Tribe households (2.84 percent) use cow-dung-cake as fuel. Thus, about 95.3 percent Scheduled Tribe households depend on these traditional sources of firewood, crop residue and cow-dung-cake for their cooking, where as 85.75 percent of all social groups depend on them (Table 5.8). Among Scheduled Tribes, a small portion of 2.94 percent use LPG/PNG, which is 8.46 percentage points less than that of 11.4 percent of all social groups.

Table 5.8: Fuel used for Cooking by Households of Scheduled Tribe and All, 2011 Census

		Fire-wood	Crop residue	Cow dung cake	Coal, Lignite, Charcoal	Kerosene	LPG/ PNG	Electricity	Biogas	Any other	No cooking
Rural	ST	85.53	6.93	2.84	0.51	0.28	2.94	0.07	0.12	0.61	0.17
	All	62.54	12.33	10.88	0.77	0.73	11.40	0.07	0.41	0.62	0.24
Urban	ST	33.09	1.80	1.18	4.66	8.37	49.21	0.44	0.46	0.27	0.51
	All	20.12	1.45	1.72	2.89	7.53	65.03	0.15	0.41	0.20	0.51

Source: Houses and Household Amenities for Scheduled Tribes, <http://tribal.nic.in/Content/STATISTICSDivision.aspx>

Figure 5.13: Fuel used for Cooking by Households of Scheduled Tribes and All, 2011 Census



In urban areas, the trend is different, as 49.21 percent of Scheduled Tribes use LPG/PNG and 33.09 percent of them, depend on firewood. Among all social groups, 65.03 percent use LPG/PNG, which is 15.82 percentage points higher than that of Scheduled Tribes. About 20.12 percent of all groups depend on firewood, which is 12.97 percentage points lower than that of Scheduled Tribes. Although LPG/PNG is used by Scheduled Tribes in urban areas, (possibly smaller 5 kg cylinders handy for migrant and small families), the traditional use of firewood (33.09 percent) and kerosene (8.37 percent) are still popular among the Scheduled Tribes.

Only 19.7 percent households get water from within the premises, which is 26.9 percentage points less than that of all groups of 46.6 percent. About 46.7 percent and 33.6 percent of Scheduled Tribe households fetch water from near the premises (within 100 meters) and away (beyond 100 meters) from the households, respectively. The problem of accessing drinking water is endemic in many tribal areas, which is evidenced from Table 5.9.

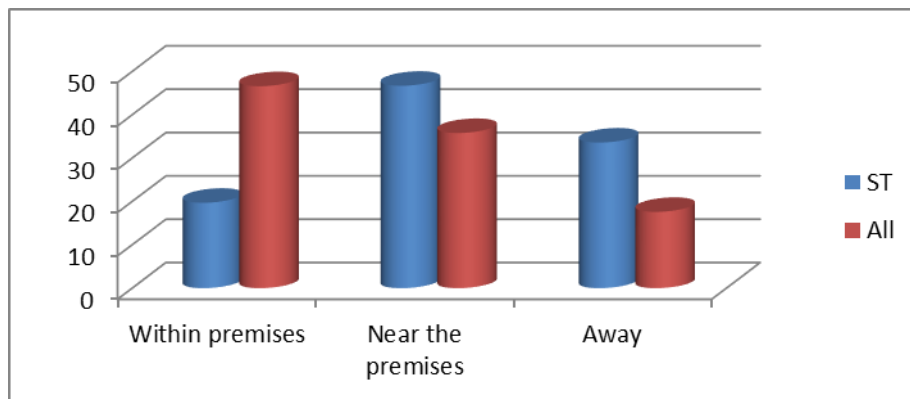
Among the main sources of drinking water, about 39 percent of Scheduled Tribe households depend on hand-pump, which is 5.7 percentage points higher than that of all groups of 33.5 percent. It is also observed that 19.1 percent of Scheduled Tribe households depend on uncovered wells, while it is just 9.4 percent among all social groups. About 14.6 percent of Scheduled Tribe households depend upon tap-water from treated source, whereas it is 32 percent for all social groups. About 9.8 percent of Scheduled Tribes have access to tap-water from untreated sources and 7.8 percent of them get water from tube-well/borehole.

Table 5.9: Location and Source of Drinking Water for Scheduled Tribes and All Households, 2011 Census

Location and source of drinking water		Scheduled Tribes				All			
		Percent of HH by source	Within premises	Near the premises	Away	Percent of HH by source	Within premises	Near the premises	Away
Percent of households by location of drinking water		100	19.7	46.7	33.6	100	46.6	35.8	17.6
Main source of drinking water	Tap-water from treated source	14.6	53.7	35.1	11.3	32	68.4	25.1	6.5
	Tap-water from untreated source	9.8	28.7	54.7	16.6	11.6	42.9	45.6	11.5
	Covered well	1.9	23.5	40.1	36.4	1.6	54.5	26.3	19.2
	Uncovered well	19.1	14.3	39.8	45.9	9.4	33	35.5	31.5
	Hand-pump	39.2	10.5	55.9	33.6	33.5	35.4	43.2	21.4
	Tube-well/Borehole	7.8	22.2	44.6	33.2	8.5	46.5	32.6	21
	Spring	3.1	0	29.9	70.1	0.5	0	35.2	64.8
	River/ Canal	2	0	29.8	70.2	0.6	0	39.4	60.6
	Tank/pond/lake	1.1	0	43.6	56.4	0.8	0	58.7	41.3
	Other sources	1.3	0	31.6	68.4	1.5	0	40.1	59.9

Source: Houses and Household Amenities for Scheduled Tribes, <http://tribal.nic.in/Content/STATISTICSDivision.aspx>

Figure 5.14: Percentage of households by location of drinking water for Scheduled Tribes and All groups, 2011 Census

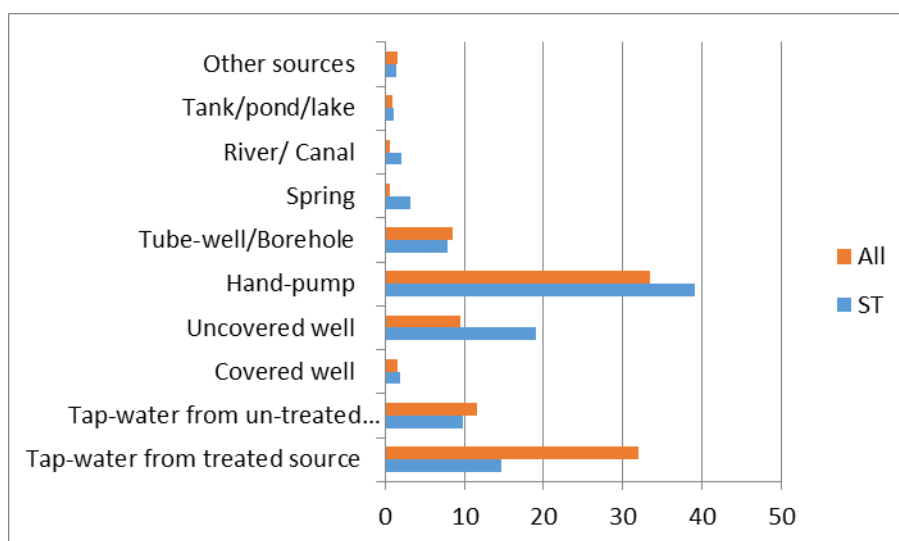


For 55.9 percent of Scheduled Tribe households, hand-pumps are located near the premises, while for 33.6 percent, hand-pumps are away from the households. Only 10.5 percent of Scheduled Tribe households have hand-pumps in their premises. About 43 percent of households of all social groups have hand-pumps near the premises, while 35.4 percent of households have the facility within the premises and 21.4 percent have away from the premises.

Regarding the location of the second major source of drinking water, that is, uncovered well, for 45.9 percent of Scheduled Tribes, it is located away from households, near the premises for 39.8 percent and within the premises for 14.3 percent of households.

About 6.2 percent of Scheduled Tribe households access drinking water from open sources, such as springs, rivers, canals, tanks, ponds, lakes, whereas it is 1.9 percent of all social groups. These open sources are most often contaminated, for which the Scheduled Tribe population is comparatively more vulnerable to water borne diseases.

Figure 5.15: Percentage of households by source of drinking water for Scheduled Tribes and All groups, 2011 Census



As regards sanitation, Table 5.10 clearly indicates that Scheduled Tribes lag behind all social groups. 77.4 percent of Scheduled Tribe households do not have latrine facility within the premises, and 74.7 percent of them go for open defecation. Only 22.6 percent of Scheduled Tribe households have latrine facility within the premises, which is 24.3 percentage points lower than that of all social groups. Among all social groups, 53.1 percent of households lack latrine facility within the premises, which is 24.3 percentage points less than that of Scheduled Tribes and 49.8 percent of all households go for open defecation, which is 24.9 percentage points less than that of Scheduled Tribes.

Table 5.10: Percentage of Household having Latrine and Bathing Facility within Premises, 2011

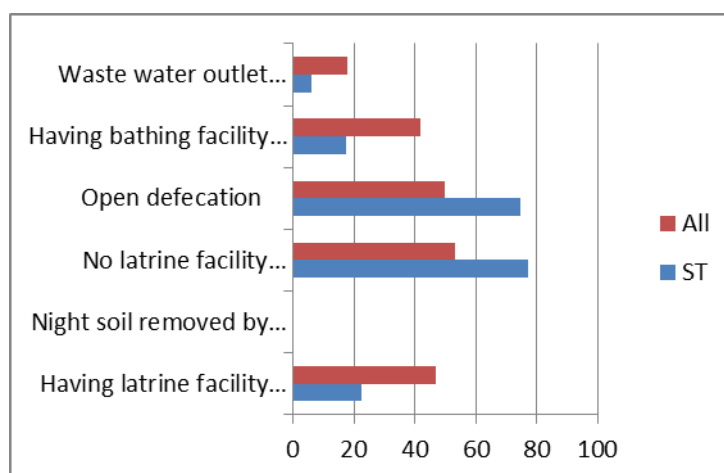
	Total number of households	Percent of HH having latrine facility within the premises	Night soil removed by human	Percent of households not having latrine facility within the premises	Open defecation	Percent of households having bathing facility within the premises	Waste water outlet connected to (Closed drainage)
ST	23,329,105	22.6	0.1	77.4	74.7	17.3	6.1
All	246,692,667	46.9	0.3	53.1	49.8	42.0	18.1

Source: Houses and Household Amenities for Scheduled Tribes,

http://tribal.nic.in/Content/STATISTICS_Division.aspx

Among Scheduled Tribes, 17.3 percent of households have bathing facility within the premises, whereas 42 percent of all households, have the same facility. 6.1 percent of ST households have waste water outlet connected to closed drainage, whereas 18.1 percent of all households have the same facility.

Figure 5.16: Percentage of Households having Latrine and Bathing Facility within Premises, 2011



5.4.1 Value of Assets and Average Asset Value

Among Scheduled Tribes, 44.98 percent of households have bank accounts thus availing banking services, whereas 58.7 percent of all households have the same facility. Value of total assets and its two major components (land and buildings), along with their respective shares, among social groups in rural and urban areas is shown in Table 5.12. In rural areas, average value of total assets among Scheduled Tribes is Rs. 1, 36,640 compared to Rs. 2, 65,606 for all social groups, which is 94 percent higher than the average value of assets of Scheduled Tribes (Figure 5.18).

The share of Scheduled Tribes in the total assets value is only 5.2 percent, which is nearly half of their share of households (10.2 percent). This indicates lower share of value of assets for Scheduled Tribes against their households. The average value of land and buildings per households for Scheduled Tribes has relatively lower value (Rs. 1, 16,281) than that of all social groups (Rs. 2, 30,280) in rural areas. Among Scheduled Tribes and all social groups, the percentage share of value of land and buildings occupies more than 85 percent with not much variation between these groups. When we observe the percentage share of values of land and buildings separately, Scheduled Tribes have lower share of values of land (61.3 percent) than all social groups (63.2 percent) and marginally higher share of values of buildings (23.8 percent) than all social groups (23.5 percent) in rural areas.

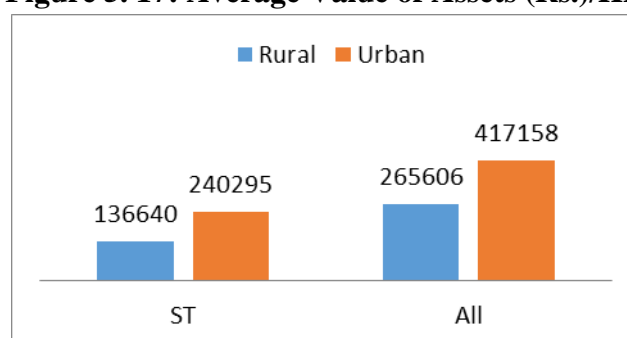
Table 5.11: Value of Land, Buildings and Total Assets by Rural and Urban at All-India, by Scheduled Tribes and Others

S.No.	Social Group	No. of households ('00)	Percent Distribution of Households	AVA per HH (Rs.)	Percent Distribution of Total Assets	Av. Value of Land and Building per HH (Rs.)	Percent Distribution of Value of land and Building	Percent Share of Value of Land and Building in each Group	Percent Share of Value of Land in each Group	Percent Share of Value of Building in each Group
Rural										
1	ST	150825	10.2	136640	5.2	116281	5.2	85.1	61.3	23.8
2	Others	394457	26.7	429513	43.1	374965	43.4	87.3	66.6	20.7
3	All Groups	1478529	100.0	265606	100.0	230280	100.0	86.7	63.2	23.5
Urban										
1	ST	16547	3.0	240295	1.7	167486	1.6	69.7	35.9	33.8
2	Others	264851	47.7	560362	64.1	429237	64.4	76.6	37.5	39.1
3	All Groups	554976	100.0	417158	100.0	318292	100.0	76.3	38.5	37.8

Source: NSSO (2006), Report 503(59/18.2/4), p.21, 23.

In urban areas, Scheduled Tribes show lower average value of assets (Rs.2,40,295) by 42.4 percent than that of all social groups (Rs.4,17,158), as shown in Figure 5.17. Further, Scheduled Tribes have lower share of assets than that of their counterparts in urban areas. Again, for land and buildings, Scheduled Tribes have lower share (69.7 percent) than all social groups taken together (76.3 percent). For land and buildings separately also, Scheduled Tribes have lower share than all social groups in urban areas.

Figure 5. 17: Average Value of Assets (Rs.)/HH



To understand the inequitable distribution of assets, it is interesting to see the share of households having asset values of (i) < Rs.30,000 and (ii) >Rs.3,00,000 for rural and urban areas among Scheduled Tribes and all social groups as shown in Table 5.12. In rural areas, for all social groups the share of households with <Rs. 30000 is 15.9 percent, and for Scheduled Tribes it is 23.5 percent. As against this, if we look at the share of households with >Rs. 300000, for all social groups it is nearly 1/4th whereas among Scheduled Tribes it is less than 1/10th. In urban areas, in the <Rs. 30000 category, the share of all social groups is 23.0 percent, while for Scheduled Tribes it is

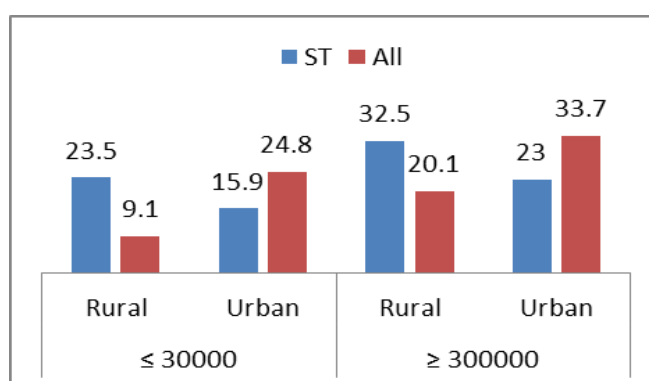
32.5 percent. In the >Rs.3,00,000 category, Scheduled Tribes with 20.1 percent lag behind all social groups' share of 33.7 percent. This indicates inequitable distribution of assets among Scheduled Tribes in rural and urban areas (Figure 5.18).

Table 5.12: Percentage of Households belonging to Selected Asset Holding Category

Region	Social Group	Percent of Household Asset Holding	
		< 30000	>300000
<u>Rural</u>			
1	ST	23.50	9.10
2	All	15.90	24.80
<u>Urban</u>			
1	ST	32.50	20.10
2	All	23.00	33.70

Source: NSSO (2006), April, p.22

Figure 5.18: Percent of HH Asset Holding



5.5 Employment (Formal, Organized and Unorganized Sectors)

5.5.1 Work Force Participation

Worker Population Ratios (WPRs)⁴⁷ of Scheduled Tribes and All Social Groups over the NSS Rounds is presented below. At the all-India level, the WPRs according to usual status (*ps+ss*) for different social groups over the periods from 1983 to 2009-10 have been presented in Table 5.13.⁴⁸

⁴⁷ Worker population ratio is defined as the number of persons employed per thousand persons.

⁴⁸ The survey periods for which the WPRs have been presented in this Table refer to those of NSS 38th (1983), 43rd (1987-88), 50th (1993-94), 55th (1999-2000), 61st (2004-05) and 66th (2009-10) rounds.

Table 5.13: No. of Employed per 1000 Persons (WPR) during 1983 to 2009-10

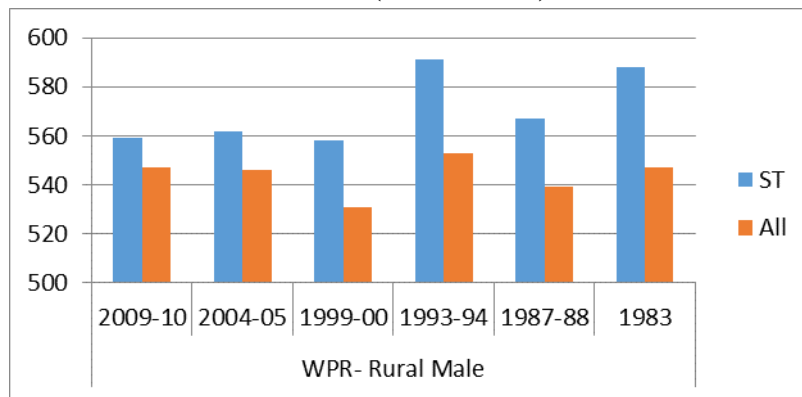
Year of Reference	Worker Population Ratio (WPR)	
	ST	All
Rural Male		
2009-10	559	547
2004-05	562	546
1999-00	558	531
1993-94	591	553
1987-88	567	539
1983	588	547
Rural Female		
2009-10	359	261
2004-05	464	327
1999-00	438	299
1993-94	482	328
1987-88	454	323
1983	478	340
Urban Male		
2009-10	510	543
2004-05	523	549
1999-00	480	518
1993-94	520	521
1987-88	504	506
1983	531	512
Urban Female		
2009-10	203	138
2004-05	245	166
1999-00	204	139
1993-94	234	155
1987-88	225	152
1983	255	151

Source: NSSO (2012), September, p.35

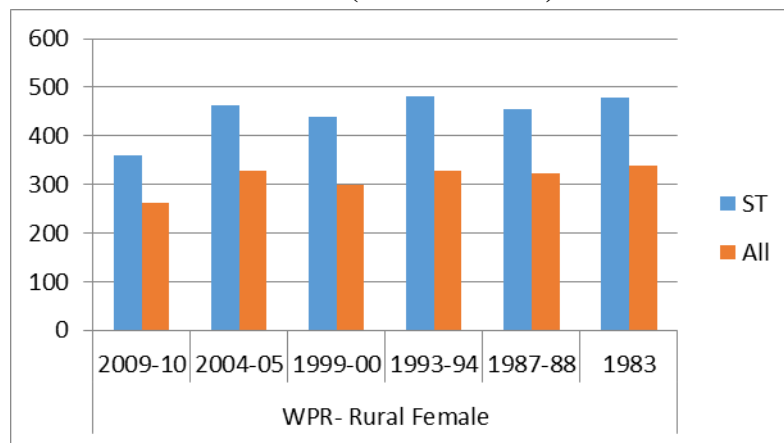
WPR= (No. of Employed Persons/Total Population)*1000

In rural areas, for Scheduled Tribe males, between 1983 and 1993-94, WPR was between 56.7 percent and 59.1 percent, whereas between 1999-00 and 2009-10, its levels decreased to between 55.8 percent and 56.2 percent. What is significant here is that the rural Scheduled Tribe males exhibit higher levels of WPR, in each of the rounds than those of all social groups. In 2004-05 and 2009-10, the rural male Scheduled Tribes have WPR of 56.2 percent and 55.9 percent as against 54.6 percent and 54.7 percent respectively for all groups. For rural female Scheduled Tribe category, between 1983 and 2004-05, the WPR was between 43.8 percent (1999-00) and 48.2 percent (1993-94). In 2009-10, the same was 35.9 percent. However, these WPRs are substantially higher than the females of all groups. Thus, WPRs of both rural males and females among Scheduled Tribes are higher than those of their counterparts among all social groups (Figures 5.19 and 5.20).

**Figure 5.19: Worker Population Ratio (WPR) from 1983 to 2009-10
(Rural Male)**

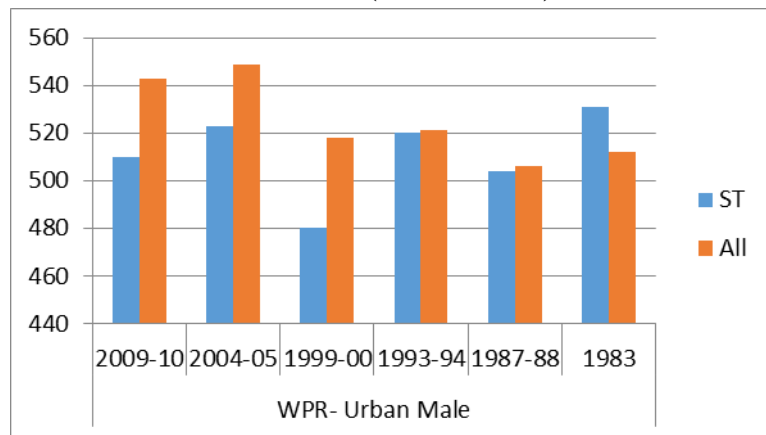


**Figure 5.20: Worker Population Ratio (WPR) from 1983 to 2009-10
(Rural Female)**

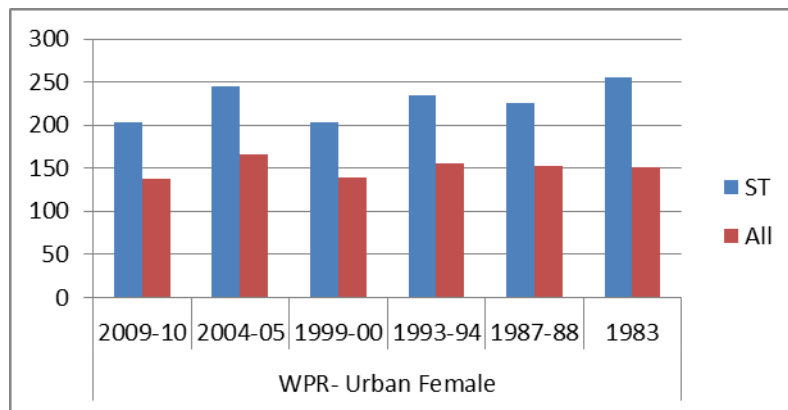


In urban areas, the WPRs with respect to Scheduled Tribe males, are less than the average of all groups for almost all the years. In 1983, the male Scheduled Tribe category exhibited 53.1 percent of WPR, which was marginally higher than that of all groups (51.2 percent). Between 1987-88 and 2009-10, the WPR of male Scheduled Tribes varied between 48.0 percent (1999-00) and 52.3 percent (2004-05), whereas the same for all groups lay between 50.6 percent (1987-88) and 54.9 percent (2004-05). But, for Scheduled Tribe female category, the WPR is higher than those of their counterparts among all groups, without any exception (Figures 5.21 and 5.22)

**Figure 5.21: Worker Population Ratio (WPR) from 1983 to 2009-10
(Urban Male)**



**Figure 5.22: Worker Population Ratio (WPR) from 1983 to 2009-10
(Urban Female)**



Another recent survey conducted by Ministry of Labour and Employment also reveals a similar trend of WPR among different social groups, as given in Table 5.14 as well as in Figure 5.23. The survey confirms the highest WPR among Scheduled Tribe category, which is estimated at 54.7 percent. Under the General category the WPR is lowest, which is estimated at 44.9 percent with the usual principal status approach.⁴⁹

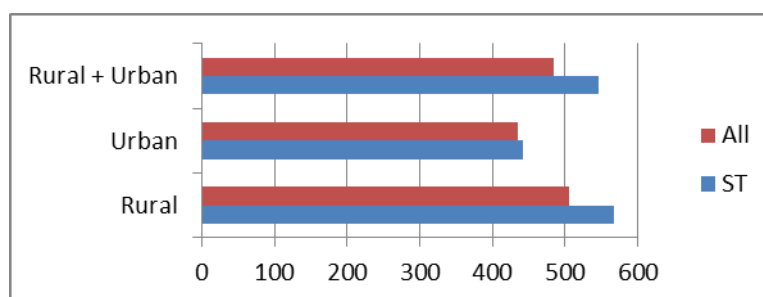
⁴⁹ The major time spent by a person (183 days or more) in a year is used to determine whether the person is in the labour force or out of labour force. This approach is called the Usual Principal Status (UPS) Approach (Government of India, 2013).

Table 5.14: Worker Population Ratio for different social groups based on UPS approach

Social Group	Rural			Urban			Rural + Urban		
	M	F	P	M	F	P	M	F	P
ST	767	351	567	688	181	443	755	324	547
Overall	749	234	505	699	147	435	735	209	485

Source: Government of India, 2013, Report on Third Annual Employment & Unemployment Survey (2012-13), Vol. I, Chandigarh: Labour Bureau, Ministry of Labour & Employment.

Figure 5.23: Worker Population Ratio based on UPS approach



Labour Force Participation Rate (LFPR)⁵⁰

Table 5.15 reveals that the Labour Force Participation Rate (LFPR) based on Usual Principal Status (UPS) approach at all India level is highest among Scheduled Tribes with 56.7 percent, and it is lowest among overall category with 50.9 percent (Figure 5.24). The female LFPR is highest in case of Scheduled Tribes with 33.6 percent compared to the all India average of 22.6 percent.

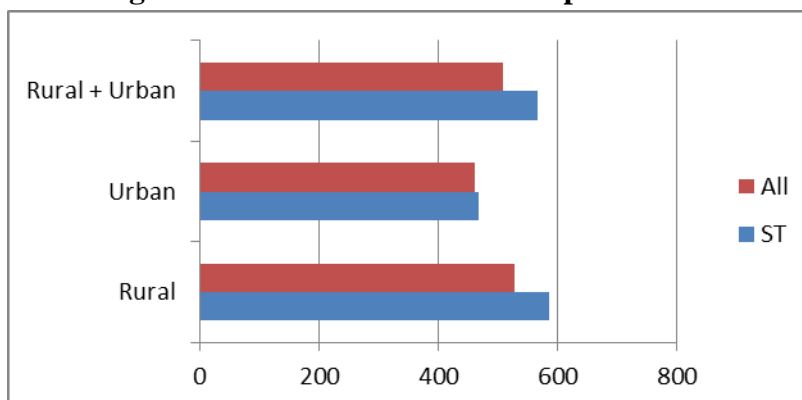
Table 5.15: Labour Force Participation Rate for different social groups based on UPS approach for persons aged 15 years & above

Social Groups	Rural			Urban			Rural + Urban		
	M	F	P	M	F	P	M	F	P
ST	794	362	586	718	201	468	782	336	567
Overall	780	248	528	730	169	461	766	226	509

Source: Govt. of India, 2013, Report on Third Annual Employment & Unemployment Survey (2012-13), Vol. I, Chandigarh: Labour Bureau, Ministry of Labour & Employment.

⁵⁰ Labour Force Participation Rate (LFPR) is defined as the number of persons in the labour force per 1000 persons. Any person who is working or is available for/seeking work will be considered part of the 'labour force'.

Figure 5.24: Labour Force Participation Rate



5.5.2 Unemployment Rates

The estimates of unemployment rates (number of unemployed per 1000 in the labour force) and proportion of unemployed in total population, according to the usual status (ps+ss) for the 38th (1983), 43rd (1987-88), 50th (1993-94), 55th (1999-2000), 61st (2004-05) and 66th (2009-10) rounds are presented in Table 5.16 for different social groups at the all-India level.

Table 5.16: Unemployment Rate (UR) and Proportion of Unemployed Persons (PU) from 1983 to 2009-10

Year of Reference	No. of the Unemployed per 1000 Labour Force		No. of the Unemployed per 1000 Persons	
	ST	All	ST	All
Rural Male				
2009-10	17	16	10	9
2004-05	11	16	6	9
1999-00	11	18	6	10
1993-94	8	14	5	8
1987-88	7	18	4	10
1983	5	14	3	8
Rural Female				
2009-10	9	16	3	4
2004-05	4	18	2	6
1999-00	5	10	2	3
1993-94	3	8	2	3
1987-88	14	24	6	8
1983	1	7	1	2
Urban Male				
2009-10	44	28	24	16
2004-05	29	38	16	22
1999-00	44	46	22	25
1993-94	47	40	26	22

1987-88	43	52	22	28
1983	43	51	24	28
Urban Female				
2009-10	43	57	9	8
2004-05	34	69	9	12
1999-00	28	54	6	8
1993-94	17	62	4	10
1987-88	20	62	5	10
1983	15	49	4	8

Source: NSSO (2012), September, p.41

Notes: Unemployment Rate (UR) = $\{(no\ of\ unemployed\ persons) / (no\ of\ employed\ persons + no\ of\ unemployed\ persons)\} * 1000$.

I. Proportion Unemployed (PU) = $[no\ of\ unemployed\ persons / total\ population] * 1000$

As the WPRs of Scheduled Tribes are higher among rural males, rural and urban females, the unemployment levels appear less among Scheduled Tribes. The measures used here are unemployment rate and proportion of unemployed persons. Though the denominator, 'unemployed persons' is the same in the two standards, the numerator in the former case is labour force (employed and unemployed persons) and in the latter case the numerator is the total persons (labour force and non-workers).

Figure 5.25: Unemployment Rate (Rural Male)

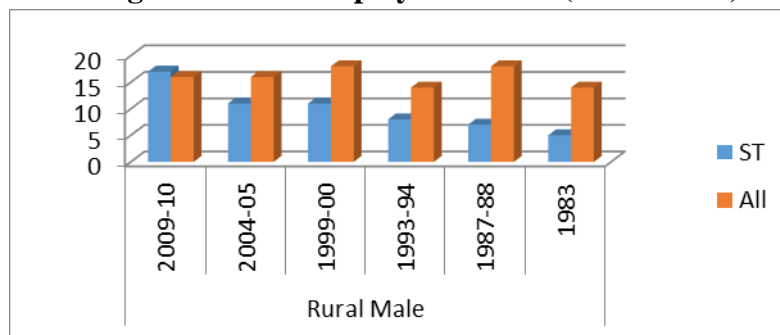
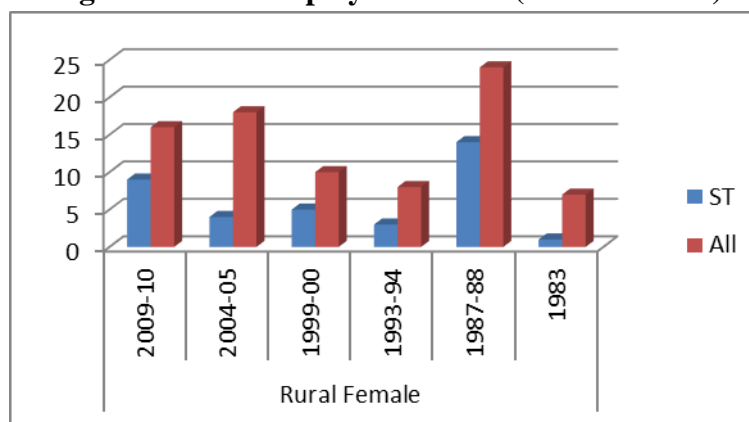


Figure 5.26: Unemployment Rate (Rural Female)



In the analysis below, only unemployment rate is being considered. In rural areas, (except in 2009-10), in all other five rounds, the unemployment rate with respect to

Scheduled Tribe males is less than those of all groups. For the male Scheduled Tribes, unemployment rates lay between 0.5 percent to 0.8 percent in the periods from 1983 to 1993-94, while they varied between 1.1 percent to 1.7 percent in the periods 1999-00 to 2009-10. For Scheduled Tribe females, the unemployment rates are substantially less than those of all groups. This is in conformity with higher WPRs observed earlier in the previous part. In urban areas, the unemployment rates for both males and females, are relatively higher among all social groups and in all the years of reference, compared to those in the rural sector.

Figure 5.27: Unemployment Rate (Urban Male)

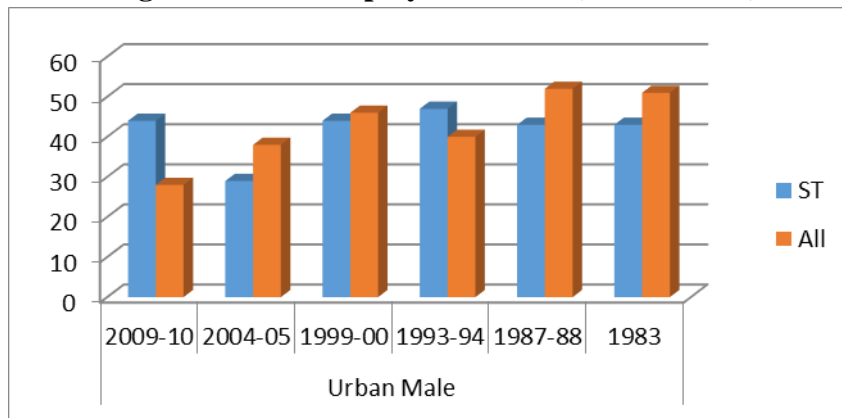
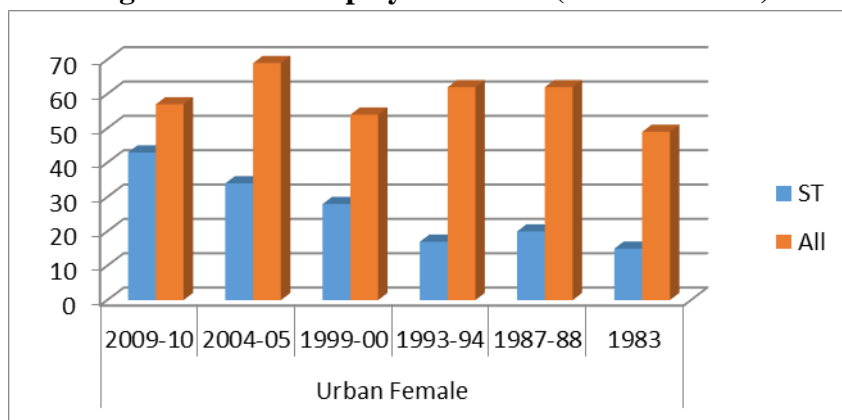


Figure 5.28: Unemployment Rate (Urban Female)



The unemployment rates of urban Scheduled Tribe males in 1983, 1987-88, 1999-00 and 2004-05 are lower than those of all groups. In other two time periods (1993-94 and 2009-10), this category of males show higher rates in comparison with males of all social groups. The unemployment rates for urban Scheduled Tribe males vary between 4.3 percent and 4.7 percent in all the years, except in 2004-05 for which unemployment rate is 2.9 percent. For all groups, higher rates were seen for 1983 and 1987-88 (Figure 5.27).

As regards urban female Scheduled Tribes, unemployment rates are lower than those of their counterparts among all social groups. From the data across the survey

periods, among females, the unemployment rates range between 1.5 percent and 4.3 percent for Scheduled Tribes, whereas the same lie between 4.9 percent and 6.9 percent for all groups. This is also in conformity with WPRs of urban Scheduled Tribe females (Figure 5.28).

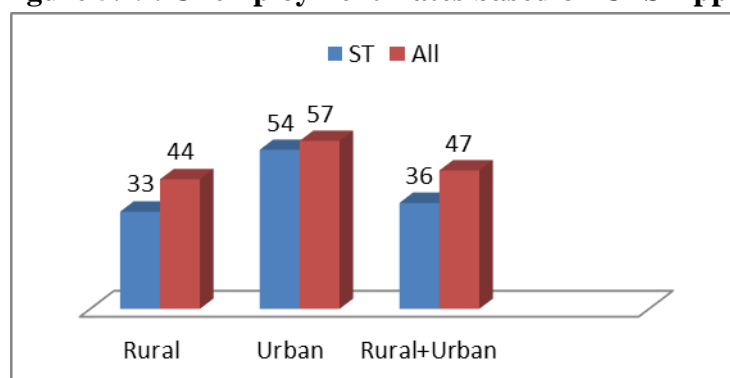
Table 5.17, confirms the NSSO findings.⁵¹ The Report⁵² reveals that the unemployment rate at 3.6 percent at All- India level is lowest in the Scheduled Tribe category, and it is 4.7 percent for overall category.

Table 5.17: Unemployment Rates for Scheduled Tribes and All Groups based on UPS approach

Social Groups	Rural			Urban			Rural and Urban		
	M	F	P	M	F	P	M	F	P
Scheduled Tribe	33	32	33	42	96	54	35	38	36
Overall	40	58	44	42	128	57	40	72	47

Source: Govt. of India. 2013. Report on Third Annual Employment & Unemployment Survey (2012-13), Vol. I. Chandigarh: Labour Bureau, Ministry of Labour & Employment.

Figure 5.29: Unemployment Rates based on UPS Approach



5.5.3 Employment in Organized Sectors

Employment in Government Sector

If the trend of government employment status among Scheduled Tribes from 1978 to 2000 is analyzed, it is very significant to note that the percentage of government employments, including insurance is much below the proportion of Scheduled Tribe population to total population of the country as shown in Table 5.18. It could be either due to non-implementation of the provision of reservation provided for Scheduled Tribes or non-availability of suitable candidates for employment or both.

⁵¹ It is based on the calculation of unemployment rate at all India level, under the usual principal status approach for the persons aged 15 years and above.

⁵² Government of India. 2013. Report on Third Annual Employment & Unemployment Survey (2012-13), Vol. I. Chandigarh: Labour Bureau, Ministry of Labour & Employment.

Table 5.18: Percentage of Combined Government Employment including Insurance

Years	ST	Others
1978	4.7	80.4
1980	5.0	79.2
1989	6.5	76.4
1990	6.7	75.8
1999	6.5	76.8
2000	6.6	76.8
2001	6.7	76.5
2004	6.9	76.0
1994*	6.2	76.9
2000*	6.6	76.8

Source: Thorat and Senapati, 2007⁵³

* Percentage of government employees including Insurance.

The data on group-wise distribution of Scheduled Tribe representation in Central Government Services reveals that the percentage of Groups A and B services is much lower than their total representation and their representation in Groups C and D services as indicated in Table 5.19. In 1994, there were 195802 Scheduled Tribe employees out of 3567112 of all employees in central government services. The share of Scheduled Tribes was 5.49 percent at the aggregate level, and it was 2.8 percent and 2.9 percent in Groups A and B services respectively. The share of Scheduled Tribes in Groups C and D is twice as high as in Groups A and B. In 1999, the total strength of central government employees remaining almost the same (3544262), at the aggregate level, the share of Scheduled Tribes in the total has improved from 5.49 percent to 6.17 percent as the absolute number increased from 1,95,802 to 2,18,653. The share in Group A increased to 3.39 percent from 2.92 percent in 1994. Similarly, the shares of Groups C and D increased marginally by 0.7 and 0.8 percentage points respectively. In 2004, total central government employees decreased to 3058506 (from 3544262 in 1999). Similarly, the number of employees among Scheduled Tribes also decreased. It may be due to the effect of LPG (Liberalization, Privatization and Globalization) policies of the Government of India in downsizing the role of government. Further, it is noticed that among Scheduled Tribes the absolute number increased only among Group B services to 6,274 (from 3,512 in 1999). Thus, their share went from 2.35 percent to 4.6 percent. In the Groups A and C, their shares showed slight increase but decreased in Group D.

⁵³ Thorat, Sukhadeo and Chittaranjan Senapati. 2007. *Reservation in Employment, Education and Legislature: Status and Emerging issues. Working Paper Series, Vol. II, No.5.* New Delhi: Indian Institute of Dalit Studies. www.dalitstudies.org.in

Table 5.19: Scheduled Tribe Representation in Central Government Services in 1994, 1999, and 2004

Year (Point of Time)	Group	Total	ST	Percent
01.01.1994	A	59016	1727	2.92
	B	103198	2902	2.81
	C	2381613	128228	5.38
	D	1023285	62945	6.15
	Total	3567112	195802	5.49
01.01.1999	A	93520	3172	3.39
	B	104963	3512	2.35
	C	2396426	145482	6.07
	D	949353	66487	7
	Total	3544262	218653	6.17
01.01.2004	A	80011	3311	4.1
	B	135409	6274	4.6
	C	2040970	136630	6.7
	D	802116	53776	6.7
	Total	3058506	199991	6.5

Source: Planning Commission (Government of India). 2008. Eleventh Five Year Plan 2007-12, Vol. I (Chapter 6: Social Justice), p.114., New Delhi.

With regard to percentage share of Scheduled Tribes in Central Government jobs category-wise, as seen in Table 5.20, it is clear that the percentage of Scheduled Tribes in Group A and Group B services is very meager. While 0.07 percent of Scheduled Tribes were employed in Group A services in 1960, it was 1.70 percent in 2003. In Group B services, 0.42 percent of Scheduled Tribes were employed in 1960, and it was raised to 3.72 percent in 2003. Interestingly, more than three-fourth (77.53 percent) of the ST employees were under the Group D category in 1960. But, their representation slowly came down to 28.96 percent by 2003, as they perhaps gradually availed opportunities under Group C services over a period of time from 1960 to 2003. Therefore, 21.98 percent of Scheduled Tribe employees were under Group C in 1960, which was raised to 65.62 percent in 2003.

**Table 5.20: Percentage Share of Scheduled Tribe in Central Government Jobs
(By Categories)**

Years	Service Groups			
	A	B	C	D
On Jan.1				
1960	0.07	0.42	21.98	77.53
1969	0.14	0.22	38.13	61.50
1970	0.17	0.31	37.48	62.05
1979	0.36	0.48	44.38	54.77
1980	0.40	0.61	44.27	54.72
1989	0.79	0.99	57.68	40.54
1990	0.86	1.20	57.82	40.12
1999	1.45	1.61	66.54	30.41
2000	1.40	1.90	66.40	30.30
2003	1.70	3.72	65.62	28.96

(Source: Thorat and Senapati 2007)

Table 5.21 provides information on the representation of Scheduled Tribes in Public Sector Enterprises (PSEs) in India, group-wise, for specified years between 1971 and 2010. At each point of time, the number of PSEs included for the purpose has been different. There were 85 in 1971, 177 in 1980, 238 in 1999 and 2001, 189 in 2004 and 206 in 2010. At the aggregate level, the share of Scheduled Tribes was only 2.24 percent in 1971, but it rose to 7.53 percent in 1980 and thereafter it went up only marginally, reaching its peak in 2004 with 8.76 percent, and by 2010 it came down to 7.36 percent. It is interesting to observe that Group D (excluding Safai Karmacharis) alone has the highest share throughout time. In 1980 it was 10.8 percent, and by 1999 and 2001 it reached 11.4 percent and 11.7 percent respectively. In 2004 and 2010, this share rose to around 12.4 percent. The share of Group D (Safai Karmacharis) has always been lying between 1.39 percent and 4.27 percent.

The percentage share of Scheduled Tribe employment in PSEs category-wise between 1971 and 2004, about 0.43 percent of Scheduled Tribes were employed in Group A in 1971, and their employment was raised to 5.27 percent by 2004 (Table 5.22). Similarly, 0.46 percent of Scheduled Tribes were employed in Group B in 1971, which was increased to 7.84 percent by 2004. This reveals low representation of Scheduled Tribes in Group A and Group B services in PSEs when compared to their proportion of population. In 1971, 36.71 percent of Scheduled Tribes were employed in Group C and 62.39 percent in Group D (excluding sweepers). This trend was reversed in 2004 as the employment status under Group C was raised to 58.87 percent, from 36.71 percent in 1971. Concurrently, Group D employment decreased to 28.02 percent in 2004 against 62.39 percent in 1971.

Table 5.21: Group-wise Number of Employees and Representation of Scheduled Tribes in Public Sector Enterprises in India (01.01.1971 to 1.1.2010)

Year (Point of Time)	Groups	Total No. of Employees	Representation of Scheduled Tribes	
			Scheduled Tribes No.	Percent age
01.01.1971 (85 Public enterprises)	Group 'A'	31311	53	0.17
	Group 'B'	35751	57	0.16
	Group 'C'	351347	4519	1.29
	Group 'D' (Excluding Safai Karamcharis)	129220	7680	5.94
	Total	547629	12309	2.25
	Group 'D' (Safai Karamcharis)	5551	77	1.39
	Grand Total	553180	12386	2.24
01.01.1980 (177 Public enterprises)	Group 'A'	93984	623	0.66
	Group 'B'	97756	1329	1.36
	Group 'C'	1274581	98329	7.71
	Group 'D' (Excluding Safai Karamcharis)	353981	38083	10.76
	Total	1820302	138364	7.6
	Group 'D' (Safai Karamcharis)	36030	1492	4.14
	Grand Total	1856332	139856	7.53
01.01.1999 (238 Public enterprises)	Group 'A'	207424	5838	2.18
	Group 'B'	175326	7180	4.09
	Group 'C'	1115312	90551	8.12
	Group 'D' (Excluding Safai Karamcharis)	428341	48717	11.37
	Total	1926403	152286	7.91
	Group 'D' (Safai Karamcharis)	25961	778	2.99
	Grand Total	1952364	153064	7.84
01.01.2001 (238 Public enterprises)	Group 'A'	203329	6167	3.04
	Group 'B'	191715	8831	4.61
	Group 'C'	942496	83051	8.82
	Group 'D' (Excluding Safai Karamcharis)	366882	43046	11.73
	Total	1704422	141095	8.28
	Group 'D' (Safai Karamcharis)	21234	726	3.42
	Grand Total	1725656	141821	8.22
01.01.2004 (189 Public enterprises)	Group 'A'	165320	6032	3.65
	Group 'B'	156822	8980	5.73
	Group 'C'	714125	67396	9.44
	Group 'D' (Excluding Safai Karamcharis)	258663	32073	12.4
	Total	1294930	114481	8.84
	Group 'D' (Safai Karamcharis)	17778	568	3.19
	Grand Total	1312708	115049	8.76
01.01.2010 (206 Public enterprises)	Group 'A'	261072	13993	5.35
	Group 'B'	208501	13117	6.29
	Group 'C'	742516	51884	6.98
	Group 'D' (Excluding Safai Karamcharis)	221159	27546	12.45
	Total	1433248	106540	7.43
	Group 'D' (Safai Karamcharis)	34162	1462	4.27
	Grand Total	1467410	108002	7.36

Source: Public Enterprises Survey of various Years, Department of Public Enterprises, Ministry of Heavy Industries & Public Enterprises, Govt. of India. Note: Group 'A': Executive level; Group 'B': Supervisory; Group 'C': Workmen/Clerical level; Group 'D': Semi-skilled/unskilled labour

**Table 5.22: Percentage of Scheduled Tribe Employees in PSEs, 1971-2004
(By Categories)**

Year	Service Groups				
	A	B	C	D (Excluding Sweepers)	Total
On Jan 1					
1971	0.43	0.46	36.71	62.39	100
1979	0.32	0.61	69.51	29.55	100
1980	0.45	0.96	71.07	27.52	100
1989	1.14	1.80	58.88	38.17	100
1990	1.25	1.98	58.31	38.46	100
1999	3.83	4.71	59.46	31.99	100
2000	4.16	5.03	58.90	31.92	100
2004	5.27	7.84	58.87	28.02	100

Source: Thorat and Senapati 2007

As far as the representation of Scheduled Tribes in Public Sector Banks, Financial Institutions and Insurance Companies as on 31st December 2012, out of the total employees of 422520 under Group A and Group B (Officers) from 39 Banks, Financial Institutions and Insurance Companies, 27660 were from Scheduled Tribe category. It accounts for 6.55 percent, which is less than the mandatory 7.5 percent of Scheduled Tribe reservations to be followed by these Institutions (see Annexure 3). Out of the total 39 Institutions, only five (12.82 percent) had the Scheduled Tribe representation of above 7.5 percent. These include Dena Bank (9.78 percent), State Bank of Bikaner and Jaipur (9.39 percent), NABARD (7.92 percent), Indian Overseas Bank (7.87 percent), and AICL (9.39 percent). In the remaining 34 Institutions (87.17 percent) Scheduled Tribe representation was below 7.5 percent. Among them, NHB stands last with Scheduled Tribe representation of 3.19 percent, followed by State Bank of Patiala (3.69 percent), State Bank of Travancore (3.69 percent), IIFCL (3.92 percent), and IDBI (3.99 percent).

From distribution of Scheduled Tribe employees in Public Sector Banks during the period 1978 to 2004 in Table 5.23, it is revealed that in 1978 nearly two third (63.45 percent) of employees were clerks, about one-third (34.43 percent) were sub-staff, and a meager 2.12 percent were officers. However, the trend in 2004 was changed significantly for Scheduled Tribes, as one-third (33.34 percent) were officers and the representation of clerks and sub-staff got decreased to 42.25 percent and 24.41 percent respectively.

As the Government informed the Lok Sabha on 5.12.2012, the representation of Scheduled Tribes in Central Government employment as on 1.1.2011 was 4.8 percent (3734) in Group A, 6 percent (11357) in Group B, 7.7 percent (174562) in Group C,

and 6.8 percent (32791) in Group D (including Safai Karmacharis), as per Asian Centre for Human Rights (ACHR) report, 2013.⁵⁴

Table 5.23: Percentage Distribution of Scheduled Tribe Employees in Public Sector Banks (By Categories)

Years	Officers	Clerks	Sub Staff	Total
1978	2.12	63.45	34.43	100
1980	7.60	59.02	33.38	100
1988	16.19	58.02	25.79	100
1990	17.22	55.90	26.88	100
1999	23.73	50.88	25.39	100
2000	24.62	49.83	25.55	100
2004	33.34	42.25	24.41	100

Source: Thorat and Senapati 2007

Table 5.24: Percentage Distribution of Scheduled Tribe Employees in Insurance Jobs (By Categories)

Year	Service Groups				Total
	A	B	C	D	
1993	4.37	10.42	70.04	15.18	100
2000	9.18	10.62	69.89	10.30	100

Source: Thorat and Senapati 2007

As of 8 May 2013, a total of 29037 backlog vacancies for Scheduled Tribes in the Central Government were identified (Table 5.25). Out of them, a total of 16842 were filled up. The remaining 12195 vacancies are pending unfilled. These account for 44.36 percent of the total backlog vacancies of 27488 for all social categories.

Table 5.25: Backlog Vacancies for Scheduled Tribes and All in the Central Government as of 8th May 2013

	Direct Recruitment		Promotion		Total		Total pending vacancies
	Backlog	Filled up	Backlog	Filled up	Backlog	Filled up	
ST	11400	7051	17637	9791	29037	16842	12195
Total	44427	28588	31095	19446	75522	48034	27488

Source: ACHR 2013.

ACHR report, 2013 further states that the representation of Scheduled Tribes in Central Universities is very low as per the data provided by the UGC. The report says, "The data of the UGC clearly shows that the representation of the Scheduled Tribes have come down from 3.88 percent in 2006-07 to 0.24 percent in 2010-11 in the post

⁵⁴ Asian Centre for Human Rights. 2013. *The State of Tribal Employment in Public and Private Sector in India (A report submitted to the High Level Committee)* by Asian Centre for Human Rights, New Delhi.

of Professors; from 1.03 percent in 2006-2007 to 0.32 percent in the post of Readers and from 4.43 percent during 2006-07 to 3.63 percent in the post of Lecturers.”

The evidence reveals under-representation of Scheduled Tribes and pending vacancies in Central Government services. The main reason for this is lack of seriousness in the implementation of the provisions of reservation for Scheduled Tribes. The ACHR states that “...‘non-availability of eligible candidates’, ‘no suitable candidates found’ have become the modus operandi to de-reserve the reserved seats and fill up the same with general category candidates, thereby perpetuating denial and deprivation through sophisticated means.” Thus, there is an “extraordinary form of discrimination” towards Scheduled Tribes in the country even today (ACHR 2013).

5.5.4 Representation in Unorganized Sector

Own Account Enterprises (OAEs) are run by households with their own labour. Establishments are those enterprises that engage at least one hired labourer on a fairly regular basis. An establishment employing fewer than six workers (household and hired workers taken together) is termed as a Non-directory Establishment (NDE). An establishment employing at least six workers (household and hired workers taken together) is termed as a Directory Establishment (DE). In the present analysis, the latter two are clubbed under Establishments. Table 5.26 presents the relevant information on OAEs and establishments for 2001-02 for all-India.

In OAEs in rural India, Scheduled Tribes have the least share of 3.5 percent compared to 28.8 percent share recorded for others. In urban areas, Scheduled Tribes share is even less at 1.4 percent against 47 percent recorded for others. In the combined (R and U) areas, the scenario is same as in the rural areas, as the number of OAEs in rural areas is about 2/3rd of the total OAEs, rural and urban combined.

In Establishments in rural, urban and combined areas, Scheduled Tribes are nowhere near others. In rural areas, Scheduled Tribes have only 2.4 percent compared to 47.6 percent recorded in ‘others’, while in urban areas Scheduled Tribes have only 1 percent enterprises as against 67.6 percent for others. Hence, the inequality of distribution of enterprises between Scheduled Tribes and others is more visible and dominant in urban areas, even though rural areas also show substantial gap between Scheduled Tribes and others. The share of Scheduled Tribes for combined rural and urban is 1.6 percent as against 58.9 percent for others.

Table 5.26: Distribution of Enterprises (only for proprietary and partnership enterprises) of Unorganized Service Sector by Social Group of Owner / Partner by Type of Enterprise per 1000 population: All-India (2001-02)

Distribution of Enterprises by Social Group of Owner /Partner				
Sector	ST	Others	Not recorded	No. Estimated
<u>OAE</u>				
Rural	35	288	0	7521304
Urban	14	470	0	4541499
Rural and Urban	27	356	0	12062803
<u>Establishments</u>				
Rural	24	476	0	966613
Urban	10	676	0	1249093
Rural and Urban	16	589	0	2215706
<u>All Enterprises (OAE + Estt.)</u>				
Rural	34	309	0	8487917
Urban	13	514	0	5790592
Rural + Urban	26	392	0	14278508

Source: NSSO (2003), Report No.483, pp.A.74-82

Types of Enterprises included:- H1 = hotels; H2 = restaurants; I1 = Storage and warehouse; I2 = mechanized road transport; I3 = other transport and related activities; I4 = communication; K = real estate; H=, renting and business activities; M = education; N = health and social work; O = other community social and personal service activities; H = H1 + H2; and I = I1 + I2 + I3+I4.

Among all enterprises (OAEs + Estt.), the order of priorities of social groups seems to be the same as in OAEs. In rural areas, the share of Scheduled Tribes is just 3.4 percent compared to 30.9 percent recorded for others, while in urban areas, Scheduled Tribes have only 1.3 percent as against 51.4 percent recorded by other categories. In combined areas, the order of social groups as seen in rural areas is repeated because nearly 60 percent of all the enterprises are located in rural areas.

Status of OATEs and NDTEs of Scheduled Tribes versus Other Social Groups

- OATEs (Own Account Trading Enterprises) and NDTEs (Non-directory Trading Establishments) are similar to OAEs and NDEs defined in the last section. The status of expanding (E), stagnating (S) and contracting (C) industries has been presented for rural and urban areas among OATEs/NDTEs in Table 5.27.
- In rural areas, at the aggregate level, the majority of the OATEs is stagnating (61percent); only 25 percent are expanding while 15 percent are contracting. Among Scheduled Tribes, the situation is the worst as the expanding ones are only 11 percent, while the stagnating ones are just as at the overall level and the contracting ones are at 27 percent. Thus, the share of stagnating units is high among Scheduled Tribes. Though Scheduled Tribes have 2 percent of

total NDTEs, they show the best performance (expanding) by 46 percent on par with the Others (45 percent), while the contracting ones are less (only 2 percent) as against others (9 percent). However Scheduled Tribes have 52 percent stagnating NDTEs. All enterprises reflect the situation of OATEs by the sheer fact that their share in the total enterprises is the largest. In urban areas, Scheduled Tribes have a share of only 2 percent in the total OATEs, as against 71.1 percent for others. Even with regard to NDTEs in urban areas the share of Scheduled Tribes is negligible at 1.1percent compared to others who enjoyed a dominant share of 84.5 percent. Even the 1.1 percent share of enterprises among Scheduled Tribes in urban areas is either stagnant (59 percent) or contracting (47 percent).

Table 5.27: Percentage Distribution of Enterprises by Status in the Last Three Years for All Industries and Social Groups, All India (Rural and Urban), 1997

Social Group	OATE					NDTE					OATE+NDTE		
	No. of Report. Enterprises		Percent of enterprises			No. of Report. Enterprises		Percent of enterprises			Percent of enterprises		
			Status					Status			Status		
	No.	Percent	E	S	C	No.	Percent	E	S	C	E	S	C
<u>Rural</u>													
ST	3907	6.1	11	62	27	153	2	46	52	2	11	62	27
Others	37224	57.9	28	59	12	5811	76.1	45	46	9	29	59	12
All	64313	100	25	61	15	7641	100	44	47	9	25	60	14
<u>Urban</u>													
ST	1346	2	25	66	10	182	1.1	34	59	7	25	65	9
Others	46886	71.1	29	58	13	13942	84.5	43	46	10	32	56	13
All	65980	100	28	59	13	16493	100	43	47	11	30	57	12

All Trading Industry Divisions (included): 60 = Wholesale trade in agricultural raw materials live animals, food, beverages, intoxicants and textiles; 61 = Wholesale trade in wood, firewood, paper, skin, leather and fur, fuel, petroleum, chemicals, perfumery, ceramics, glass and ores, and metals; 62 = Wholesale trade in all types of machinery equipment including transport equipment; 63 = Wholesale trade not elsewhere classified; 64 = Commission agents; 65 = Retail trade in food and food articles, beverages, tobacco and intoxicants; 66 = Retail trade in textiles; 67 = Retail trade in wood, fuels and other household utilities and durables; 68 = Retail trade - not elsewhere classified; 890 = Auctioneering services

Note: E = Expanding, S = Stagnating, C = Contracting.

Source: NSSO (1998), Report No.443, pp.A.275-278

5.5.5 Employment under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA).

The employment under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, which came into effect from 2 February 2006, is meant for providing employment for Scheduled Tribes, Scheduled Castes and other categories of rural poor. However, the participation of Scheduled Tribes in this scheme has been decreasing from its inception in 2006. The person-days of employment generated for

Scheduled Tribes for the year 2006-2007 was 36 percent, and it came down to 17.19 percent in the year 2013-14 (16 percent till 13 December). This decrease is despite the fact of increasing total person-days, besides more job cards issued and more employment provided to households over the years. It reveals that though there is some increase in person-days for Scheduled Tribes against the total person-days for some years (between 2007-08 and 2009-10), their share is less than that of the total person-days (Table 5.28 and Table 5.29).

Table 5.28: Performance of the MGNREGA (National Overview)

	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14 (till 13 Dec.)
Total Job Cards issued [in Crore]	3.78	6.48	10.01	11.25	11.98	12.50	12.79	12.72
Employment provided to households (in Crore)	2.10	3.39	4.51	5.26	5.49	5.06	4.98	3.81
Person-days [in crores]								
Total	90.5	143.59	216.32	283.59	257.15	218.76	229.86	134.80
STs	32.98	42.07	55.02	58.74	53.62	40.92	40.75	21.09
STs percentage	36percent	29percent	25percent	21percent	21percent	19percent	18percent	16percent

Source: Govt. of India. 2014. MGNREGA Report to the People.

http://nrega.nic.in/netrega/writereaddata/Circulars/Report_People_Eng_jan_2014.pdf

Table 5.29: MGNREGA at a Glance

		Financial Year			
		2014-15	2013-14	2012-13	2011-12
Wage Employment Provided (in lakhs)	Households	57.2	476.8	498.9	506.4
	Individuals	75.4	734	797.3	820
	Scheduled Tribes	10.8	129	142.9	147.4
Person days (In Cr)	Total as per LB	227.0	259.2	278.7	199.6
	Person days Generated so far	5.2	218.7	230.5	218.8
	Percent of Total LB	2.3	84.4	82.7	109.6
	Percent as per Proportionate LB	38.5	869.1	844.9	109.6
	ST person days	0.8	37.6	41	40.9

<http://nrega.nic.in/netrega/home.aspx>; accessed on 30 April 2014.

Note: LB means Labour Budget

5.6 Occupational Distribution

Table 5.30 presents occupational distribution at all India level from 1971-2001, with respect to Scheduled Tribes and General Population. This indicates that the percentage of Scheduled Tribe cultivators to the total Scheduled Tribe main workers is the highest, when compared to General Population in all the NSSO surveys. The percentage of agricultural labourers and non-farming workers to the total main workers among Scheduled Tribes are consistently higher than the General population. While among Scheduled Tribes, the percentage of cultivators has decreased from 55.6 percent to 54.32 percent between 1971 and 2001, the percentage of non-farming workers has increased from 9.4 to 15.8 percent in the corresponding period.

In the NSS terminology, rural households were classified into five economic categories or household types and urban households into four types on the basis of the occupations pursued by the household members. The five types of rural households are (i) self-employed in agriculture, (ii) self-employed in non-agriculture, (iii) agricultural labour, (iv) other labour,⁵⁵ and (v) other households.⁵⁶ The four types of urban household occupations are: (1) self-employed, (2) regular wage / salary earner, (3) casual labour, and (4) other households.⁵⁷

Table 5.30: Occupational Distribution among Scheduled Tribes and Others

Category	Years	Cultivators	Agricultural labourers	Non-farming workers
Percentage of total main workers of Scheduled Tribes	1971	55.6	33	9.4
	1981	54.43	32.67	12.9
	1991	54.32	32.69	12.81
	2001	54.32	29.88	15.8
Percentage of total main workers of General populations	1971	42.9	26.9	30.2
	1981	41.5	24.94	33.48
	1991	38.75	26.15	35.1
	2001	31.7	26.5	41.5

Source: .Government of India, VII Five year plan. (1987-1992), Vol.II, P.330.

Census of India, 1991, Series1, Paper-1 Union Primary Census Abstract for SC/STs; Census of India 2001

⁵⁵ If a household was not one of these three types but its income from total rural labour was greater than that from all self-employment and from other gainful sources, it was classified as "other labour".

⁵⁶ The remaining households were classified as "other households".

⁵⁷ Household not having any income from gainful employment were classified under "other households".

Figure 5.30: Occupational Distribution among Scheduled Tribes and Others

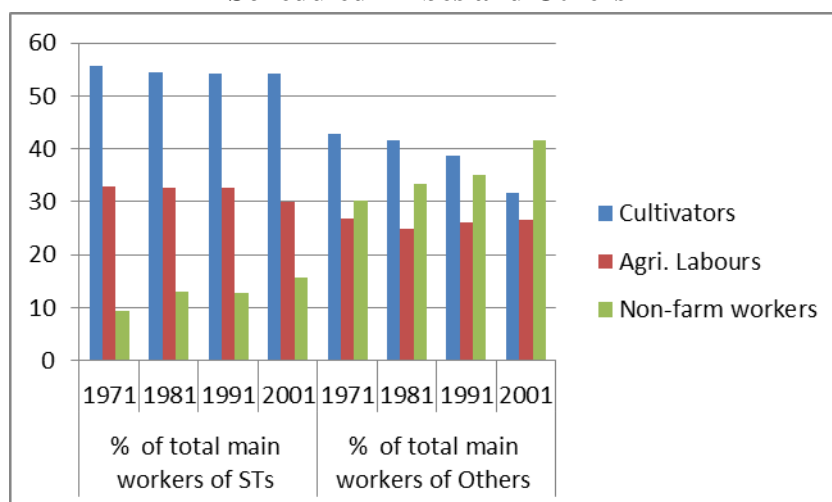
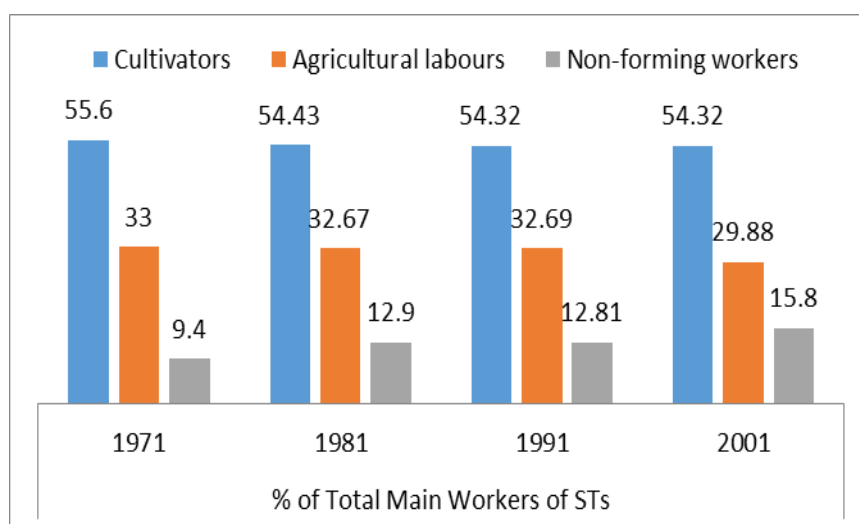


Figure 5.31: Occupational Distribution among Scheduled Tribes



According to recent NSSO survey⁵⁸, self-employment in agriculture is the dominant source of income among 31.9 percent of all groups of households. Among Scheduled Tribes also agriculture is the predominant occupation among 37 percent of the households. Non-agricultural self-employment is the lowest among Scheduled Tribes (7 percent) than that of all groups (15.5 percent). Similarly, the ‘other labour’ is the lowest among Scheduled Tribes (13.1 percent) than that of all groups (14.8 percent). At the aggregate level, 44 percent of Scheduled Tribes were self-employed, compared to 47.4 percent at all India average. While 46.5 percent of Scheduled Tribes are engaged in rural labour, the all India average under this category stands at 40.4 percent. This indicates that a considerable proportion of Scheduled Tribes is engaged

⁵⁸ NSSO survey, (2012) Report No. 543 (66th round, 2009-10)

in rural labour, although almost an equal proportion of them are self-employed (Table 5.31).

Table 5.31 Employment distribution of Rural Households among Scheduled Tribe and All by Household type

Social group	Self-employed (SE)			Rural labour (RL)			Others	All (incl. n.r.)
	Agriculture	Non-agriculture	Subtotal	Agricultural labour	Other labour	Sub-total		
ST	370	70	440	334	131	465	95	1000
All	319	155	474	256	148	404	122	1000

Source: NSSO (2012), Report No. 543, p.A-1

Table 5.32 portrays the details of urban households for 2009-10. Here Scheduled Tribes have the lowest share in the self-employment (23.3 percent) and regular salaried/wage employment (38.4 percent) than that of all groups. However, Scheduled Tribes in casual labour (21.1 percent) and 'others' category (16.9 percent) has the highest share than that of all groups.

Table 5.32 Employment distribution of Urban Households among Scheduled Tribe and All by Household type

Social Group	Household Type				
	Self-employed	Regular Salaried/Wage Employee	Casual Labour	Others	All (incl. n.r.)
ST	233	384	211	169	1000
All	347	397	134	121	1000

Source: NSSO (2012), Report No. 543, p.A-2

5.7 Income and Expenditure

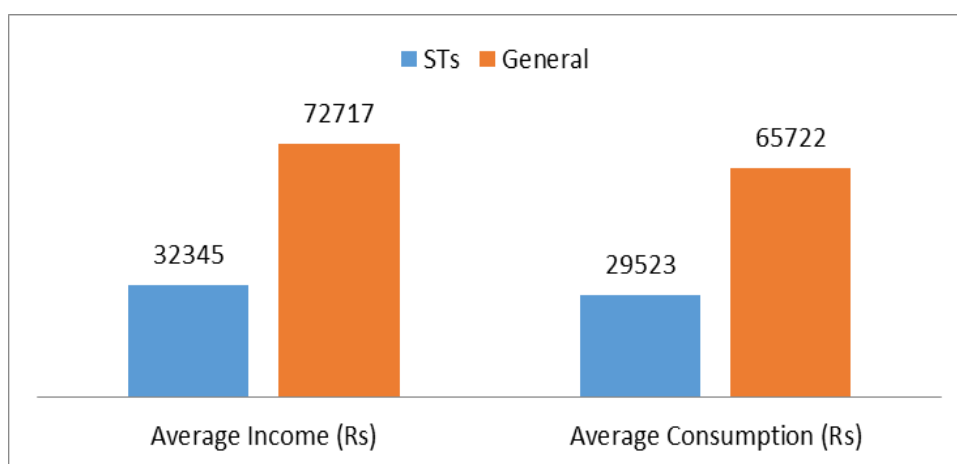
Despite changes in access to education and affirmative action, social groups that were traditionally at the lowest rung of the social hierarchy are still economically worse off. It can be seen from Table 5.33 that ST households have the lowest annual income of Rs. 32,345 compared to general population. Also the proportion of poor among the Scheduled Tribe is comparatively larger than general population, as half of the tribal population is poor, compared to just 12.0 percent of general population. Even states which have a large tribal population have comparatively lower household incomes than other states. According to a survey carried out by IHD, states in central India (Bihar, UP, Madhya Pradesh) have the lowest regional household incomes, while the lowest incomes are in Odisha. Households in these Central Indian States and Odisha have only half of the incomes of those in northern plains. It can be seen that except UP, rest of the states have a higher proportion of tribal population than others.

Table 5.33: Household incomes, consumption and poverty among Scheduled Tribes and All

Household incomes, consumption and poverty across social groups			
Social group	Average income (Rs)	Average consumption (Rs)	Percent of poor
Scheduled Tribes	32345	29523	49.6
General	72717	65722	12.0

Source: IHDS, 2004-05

Figure 5.32: Household Income and Consumption



The proportion of households deriving income from salary is lowest among Scheduled Tribes (15 percent), while their dependence on agricultural wages (30 percent) and non-farm wages (22 percent) is higher than that of general population, as seen in Table 5.34. In fact, close to half of Scheduled Tribe households derive their income from either agricultural wage or cultivation. Even though, the dependence of a significant percentage of Scheduled Tribe households on cultivation can be inferred, and their access to land ownership is higher than other social groups, it has to be mentioned that incomes derived from cultivation is less than all social groups as can be seen from the productivity levels of these farms.

Table 5.34: Proportion of Household Income by Source

Proportion of household income by source (in percent)						
Social group	Salary	Agriculture wages	Non-farm wages	Family business	Cultivation	Others
Scheduled Tribes	15	30	22	7	23	4
General	32	8	9	18	24	10

Source: IHDS 2004-05.

Figure 5.33: Percent of Poor among Scheduled Tribes and General Population

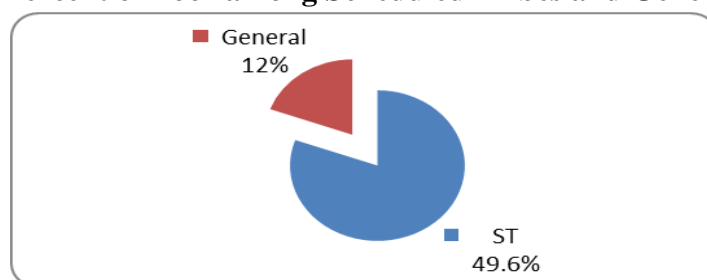


Table 5.35 shows that the average productivity of food grains in tribal populated states is far less than the all India average. Moreover, farm income in India is more volatile and uncertain than other sources of income. Table 5.36 depicts the productivity levels with reference to agriculture and crop yields across the tribal dominated states over a ten year period (2003-04 to 2012-13). It is observed that the average food grain yield in the tribal dominant states is relatively less compared to the all India average, the only exception being Andhra Pradesh. While the all India average productivity over the ten years stood at 1855 kg/hectare, Maharashtra (1017), Chhattisgarh (1207), Madhya Pradesh (1252) and Odisha (1398) exhibited productivity levels well below the national average. It can be concluded that higher the proportion of tribal population of the state, lower the productivity compared to the national average.

Table 5.35: Agricultural Productivity in Tribal States

Productivity in tribal states (Average food grains yields kg/hectare)											
States/India	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13*	10 year average
Andhra Pradesh	2012	2138	2365	2231	2613	2744	2294	2530	2519	2616	2406.2
Chhattisgarh	1231	979	1111	1148	1238	1041	1008	1424	1384	1514	1207.8
Gujarat	1629	1412	1551	1423	1831	1595	1560	1843	1874	1990	1670.8
Jharkhand	1490	1234	1073	1550	1709	1720	1330	1257	1798	1861	1502.2
Madhya Pradesh	1248	1131	1130	1167	1069	1168	1285	1162	1510	1657	1252.7
Maharashtra	860	836	948	940	1150	1001	1039	1184	1155	1057	1017
Odisha	1328	1300	1349	1369	1484	1363	1397	1432	1303	1658	1398.3
All India	1727	1652	1715	1756	1860	1909	1798	1930	2079	2125	1855.1

Source: Directorate of Economics and Statistics, Department of Agriculture and Cooperation, various years.

According to NSSO report, 1999-2000, income sources of Scheduled Tribes in rural areas from agriculture/fishing and other agriculture enterprises is comparatively higher than other social groups at the all-India level. Even while other social groups, derived higher proportion of their income from more consistent sources like rent, pension, non-agriculture enterprises and interests and dividends, the access to these sources of income for Scheduled Tribes is comparatively less. The situation is more striking among the states that have a higher concentration of Scheduled Tribe population, as the dependency on traditional sources for income is comparatively higher among these states than at the all India level (Table 5.36).

Table 5.36: Number per 1000 households reporting each source of income during the period of last 365 days belonging to different social groups, by State/UT: Rural in 1999- 2000

Number per 1000 households reporting each source of income during the period of last 365 days belonging to different social groups, by State/UT: Rural in 1999- 2000													
State/ Social Group	No. Per 1000 Households Reporting Income From										Avg. MP CE	No. Of Hhs	
	Culti vatio n	Fishing/ Other Agr.Ent erprises	Wages/ Salarie d Employ ment	Non- Agr. Enter prises	Pen sion	Rent	Rem ittan ces	Inter est And Divi dend s	Ot her s	All	(Rs)	Esti mate d	Sa mp le
	Andhra Pradesh												
ST	89	114	67	36	34	0	30	13	79	66	383	840	44
Others	287	265	184	322	31	458	382	374	23	26	564	333	14
all groups	1000	1000	1000	1000	10	1000	100	100	10	10	453	127	51
Bihar													
ST	108	156	78	50	95	43	30	126	78	81	337	120	67
Others	232	105	125	200	40	293	295	196	23	19	458	289	15
all groups	1000	1000	1000	1000	10	1000	100	100	10	10	384	149	72
Gujarat													
ST	226	189	259	149	20	112	199	34	25	20	438	120	49
Others	415	385	286	411	63	545	371	589	26	37	655	220	93
all groups	1000	1000	1000	1000	10	1000	100	100	10	10	551	592	24
Madhya Pradesh													
ST	300	585	360	131	17	104	202	184	41	29	325	334	14

					0				6	9		13	00
Others	151	41	91	194	21 6	360	238	246	16 0	14 8	516	165 80	83 6
all groups	1000	1000	1000	1000	10 00	1000	100 0	100 0	10 00	10 00	401	111 932	51 42
Maharashtra													
ST	141	95	188	65	38	50	174	11	12 7	16 9	384	196 72	67 6
Others	450	548	348	462	54 9	37 0	468	748	54 9	39 7	570	461 45	17 47
All groups	1000	1000	1000	1000	10 00	10 00	1000	100 0	10 00	10 00	496	116 151	41 18
Odisha													
ST	322	214	332	257	16 1	76	125	207	31 1	28 7	285	181 89	86 1
Others	180	145	146	178	27 3	36 3	393	344	22 2	19 0	480	120 66	79 5
All groups	1000	1000	1000	1000	10 00	10 00	1000	100 0	10 00	10 00	373	633 83	34 72
All-India													
ST	127	122	129	52	41	32	54	38	13 2	109	3 8 8	149 444	10 12 4
Others	332	345	241	344	49 3	41 2	391	566	30 1	307	5 7 7	421 353	66 8
All groups	1000	1000	1000	1000	10 00	10 00	1000	100 0	10 00	1000	4 8 6	137 168 8	71 26 8

Source NSS Report 463: Sources of Household Income in India, 1999- 2000, Appendix Tables.

The monthly per capita expenditure (MPCE) among different social groups at the all India level, Scheduled Tribes reported close to 15 percent less expenditure than other social groups and 32 percent less than households in the other category. The state level scenario depicts MPCE among Scheduled Tribes is comparatively less than the all India average (Table 5.37). In fact the difference of MPCE between the higher strata (Other Castes) and Scheduled Tribes is more glaring among the tribal dominated states, as it ranged between 30 percent and 50 percent (for instance in Odisha).

Table 5.37: State-wise Monthly per capita expenditure class for Scheduled Tribes and all social groups per 1000 distribution of persons

State/ social group	Monthly Per capita expenditure class (Rs)											
	<1 20	120- 140	140- 165	165- 190	190- 210	210- 235	235- 265	265- 300	300- 355	355- 455	455- 560	560 & above
Andhra Pradesh												
ST	67	64	136	138	79	109	98	50	70	81	79	29
All	37	42	86	119	93	108	111	104	105	88	54	53
Bihar												
ST	11 4	129	188	172	90	76	78	51	52	29	7	14
All	73	91	147	159	104	106	98	77	76	43	15	11
Gujarat												
ST	23	54	73	109	86	118	108	124	154	117	14	20
All	15	27	52	84	73	97	121	129	151	152	50	49
Madhya Pradesh												
ST	14 9	106	143	155	103	99	80	57	57	35	11	5
All	74	75	109	135	94	103	97	85	82	77	38	31
Maharashtra												
ST	81	101	151	146	116	83	91	65	74	49	20	23
All	77	57	110	117	77	95	101	89	100	83	42	52
Orissa												
ST	21 5	143	188	150	95	63	52	34	30	22	4	4
All	92	93	152	139	120	106	81	65	70	45	18	19
All-India												
ST	93	83	125	140	102	104	93	76	79	61	24	20
All	47	52	91	112	87	102	107	100	107	98	47	50

NSS Report 463: Sources of Household Income in India, 1999- 2000, Appendix Tables.

From table above, we can observe that at the all India level, the expenditure of Scheduled Tribes is predominantly in the range of Rs. 120 to 235, whereas the per capita expenditure for all social groups is mostly above Rs. 210. As income is directly linked to expenditure we may conclude that the income sources of Scheduled Tribes are comparatively less than others. The states that have predominantly higher concentration of ST population (Andhra Pradesh, Bihar, Gujarat, Madhya Pradesh, Maharashtra and Odisha), we can clearly see the all India picture being replicated in these states. However, the degree of variation is much higher among these states compared to the all India trend. In these states the proportion of persons in the higher MPE class is much lower compared to the all India scenario.

Table 5.38: Changes in Average Monthly per Capita Expenditure (MPCE)

Changes in Average Monthly Per Capita Expenditure (MPCE) Over the Period, 1999-00, 2004-05 and 2009-10										
S.No.	Social Group	55th Round (1999-00)			61st Round (2004-05)			66th Round (2009-10)		
		Rural	Urban	All	Rural	Urban	All	Rural	Urban	All
	<u>MPCE (Rs.)</u>									
1	ST	386.69	608.79	417.42	426.19	857.46	463.15	873	1797	966
2	Others	577.22	1004.75	729.45	685.31	1306.1	919.09	1281	2467	1541
All		485.88	854.7	578.62	558.78	1052.36	683.75	1054	1984	1535

Source: NSSO (2007), p.31; NSSO (2012), Oct., latter Report gave data on Rural and Urban and so recalculated from No. of Persons at Pp. 18, A.54 & 72

Temporarily, comparison of Monthly Per Capita Expenditures (MPCEs) becomes a problem, because it is only in nominal terms and the change in real situation (at constant prices), as inflation is not considered.

Table 5.38 presents the information on MPCEs among social groups by rural, urban and rural and urban sectors. In rural areas, in 1999-00 the MPCE of Scheduled Tribes was Rs.386.69, compared to Rs. 577.22 recorded for other groups. During 2004-05 and 2009-10, the MPCE increased to Rs. 426.19 and Rs. 873 for Scheduled Tribes and other groups respectively. However, the gap between Scheduled Tribes and other social groups has not narrowed down over the years. On the contrary, the gap expanded rapidly during 1999-00 to 2004-05. In urban areas also, the MPCE of Scheduled Tribes exhibited growth over the years from Rs. 609 (1999-00) to Rs. 858 (2004-05) and from Rs. 1797 (2009-10) for other groups. Though the MPCEs of Scheduled Tribes in urban areas is significantly higher than Scheduled Tribes in rural areas, the gap between Scheduled Tribes and other communities is even higher in urban areas. Thus, the gaps between the MPCE of Scheduled Tribes and those of other groups are significant across all the segments and study periods.

Table 5.39: Gaps of MPCEs of Social Groups from Scheduled Tribes

Gaps of MPCEs of Social Groups from Scheduled Tribes in Percentages										
S.No.	MPCE Gap between	55th Round (1999-00)			61st Round (2004-05)			66th Round (2009-10)		
		Rural	Urban	All	Rural	Urban	All	Rural	Urban	All
1	Others and ST	49.27	65.04	74.75	60.8	52.32	98.44	46.74	37.28	59.48
2	All Groups and ST	25.65	40.39	38.62	31.11	22.73	47.63	20.73	10.41	58.88

Source: Results of Table 25 No. of Persons at Pp. 18, A.54 & 72.

Note: In each year ST MPCE subtracted from that of other group and then percentage calculated with Scheduled Tribe MPCE as base.

The gap between Scheduled Tribes and Others, and Scheduled Tribes and all groups is depicted from the Table 5.39. In rural areas, the gap between others and Scheduled

Tribes has remained steady over the years. Though gap increased substantially from 49.2 percent during 1999-00 to 60.8 percent in 2004-05, it has however narrowed down to 46.7 percent during the latest round of estimates. However, it has to be noted that the gap between the latest round and earliest round is similar, implying that there is no improvement in the position of Scheduled Tribes. With regard to Scheduled Tribes in urban areas, the gap in MPCEs has reduced considerably over the years from 40.4 percent in 1999-00 to 10.4 percent during 2009-10.

Comparing Scheduled Tribes and all other groups in rural areas, we can notice that the gap followed the trend between Scheduled Tribes and others, as it increased from 25.6 percent to 31.1 percent between 1999-00 and 2004-05 respectively, only to decline to 20.7 percent in 2009-10. Though the gap between Scheduled Tribes and all groups is lower than Scheduled Tribes and others, however as in the case of Scheduled Tribes and others the gap is substantially higher. In urban areas also, the same trend exists between all groups and Scheduled Tribes, and similar case is observed in case of rural areas also.

In rural and urban areas combined, the gap between the MPCEs of Scheduled Tribes and others is similar to that of the general trend exhibited, as it increased in 2004-05 to again stabilize at initial levels in the latest round (2009-10). However, comparing all groups and Scheduled Tribes in this rural and urban segment, we need to notice that the gap has increased over the years from 38.6 percent (1999-00) to 47.6 percent and 58.8 percent during 2004-05 and 2009-10 respectively.

5.8 Poverty Profile

Panagariya and More computed the estimates of the poverty rates as the percentages of population below the Tendulkar poverty line in rural and urban regions and in the combined areas (Rural + Urban), for Scheduled Tribes and all social groups for years 1993-94, 2004-05, 2009-10 and 2011-12, based on NSS reports for the respective years.⁵⁹ The information is presented in Table 5.40.

⁵⁹ Panagariya, Arvind and Vishal More. 2013. *Poverty by Social, Religious and Economic Groups in India and Its Largest States, 1993-94 to 2011-12*, Working Paper No. 2013-02. School of International and Public Affairs, Institute for Social and Economic Research and Policy, Columbia University.

Figure 5.34: Percentage of BPL Population (Rural)

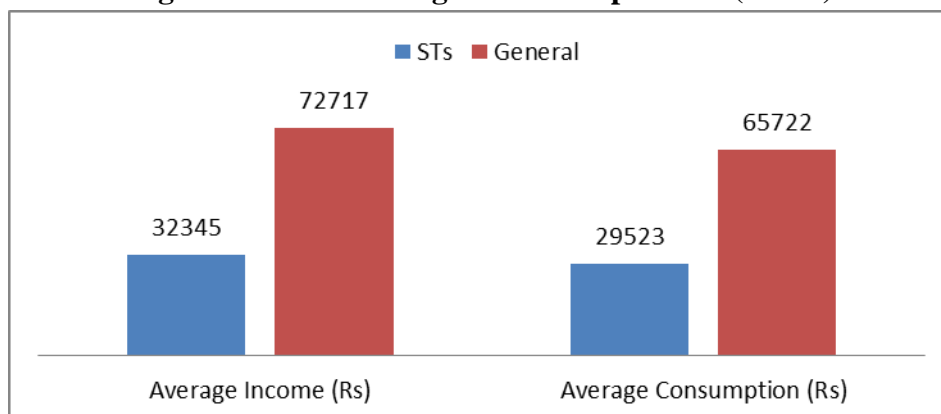


Table 5.40: Poverty by Social Groups, 1993-94 to 2011-12 in All-India – Rural, Urban and Combined

Social Groups	Percent of Share in Population	Regions	Percent of Population Below the Tendulkar Line				Percent Point Poverty Reduction	
			1993-94	2004-05	2009-10	2011-12	1993-94 to 2004-05	2004-05 to 2011-12
		Rural						
ST	11.1		65.9	62.3	47.4	45.3	3.7	16.9
FC	23.0		44.0	27.1	21.0	15.5	9.0*	11.6
All	100.0		50.3	41.8	33.3	25.4	8.5	16.4
		Urban						
ST	3.5		41.1	35.5	30.4	24.1	5.6	11.4
FC	40.3		28.2	16.1	12.4	8.1	5.8*	8.0
All	100.0		31.9	25.7	20.9	13.7	6.2	12.0
		Combined (R+U)						
ST	8.9		63.7	60.0	45.6	43.0	3.7	17.0
FC	28.0		39.5	23.0	17.6	12.5	8.1*	10.5
All	100.0		45.7	37.7	29.9	22.0	8.0	15.7

* Estimated using comparable estimates of poverty among the OBC and FC combined in 2004-05, which came down to 35percent (Rural), 22.5percent (Urban) and 31.4percent (Rural + Urban) in 2004-05. Source: Arvind Panagariya and Vishal More (2013).

Figure 5.35: Percentage of BPL Population (Urban)

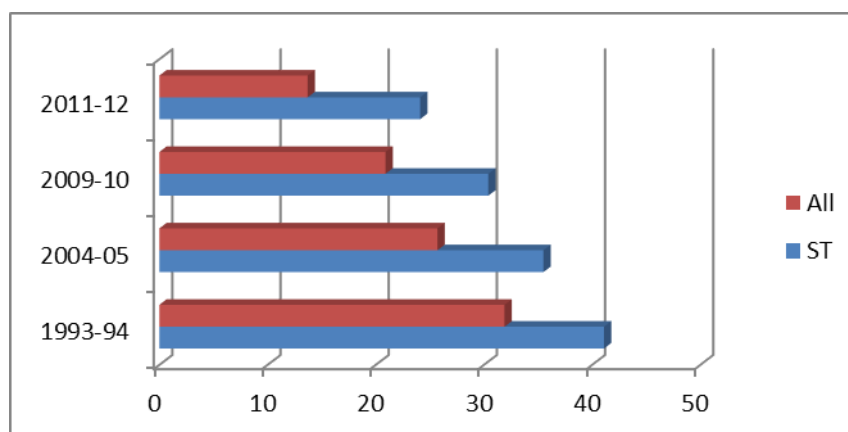
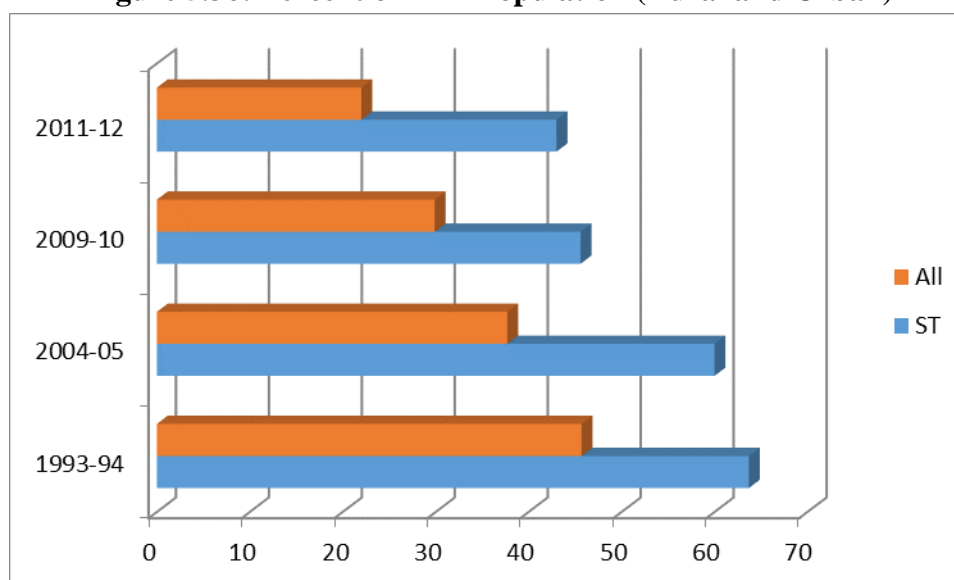


Figure 5.36: Percent of BPL Population (Rural and Urban)



In rural India, in 1993-94 poverty rate was very high, at 50.3 percent at the overall level. Among Scheduled Tribes, it was quite high with 65.9 percent. If we consider the reduction in the poverty levels between 1993-94 and 2004-05, only Scheduled Tribes lagged behind all social groups. It is observed that Scheduled Tribes have poverty rate reduction by only 3.7 percent points, whereas for all groups it was around 8.5 percent. By 2009-10, the reduction rates were substantial across all the groups between 2004-05 and 2009-10; and Scheduled Tribes also recorded a remarkable reduction. But poverty rate among Scheduled Tribes was high with 47.4 percent. Further, between 2009-10 and 2011-12, only Scheduled Tribes had less progress with a reduction of only 2.1 percent points, while all other groups exhibited substantial reductions in poverty rates. Thus it is reasonable to compare 2004-05 with 2011-12

and see the performance. In the period between 2004-05 and 2011-12, among Scheduled Tribes the poverty rate was reduced by 16.9 percent points.

In urban areas also, decline in poverty rates is similar to that of rural areas. Among all social groups, the poverty rates of urban areas are less than their counterparts across surveys. As a concomitant effect, the poverty rates of combined areas (rural + urban), lie between the rates of rural and urban areas at each point of time for all social groups. But, the poverty rates are higher among Scheduled Tribes.

Panagariya and More (2013) sharply point that the second period (i.e., 2004-05 to 2011-12) has been more favorable in reducing the rates of poverty than the first period (i.e., 1993-94 to 2004-05). They account for this on the ground that the second period due to its better economic growth could bring in broad-based benefit to all sections of the society. In this connection, the Planning Commission too has held a view which is not dissimilar to theirs. The formula adopted by them has, however, been the subject of much dispute and contestation. As reported in *The Hindu* newspaper in March 2012,

“The Planning Commission on Monday released the latest poverty estimates for the country showing a decline in the incidence of poverty by 7.3 per cent over the past five years and stating that anyone with a daily consumption expenditure of Rs. 28.35 and Rs. 22.42 in urban and rural areas respectively is above the poverty line.

*The new poverty estimates for 2011-12 will only add to the furore triggered by the Commission’s affidavit in the Supreme Court in October (2011) in which the BPL cap was pegged at an expenditure of Rs. 32 and Rs. 26 by an individual in the urban and rural areas respectively at the going rate of inflation in 2010-11.”*⁶⁰

5.9 Average Debt and Incidence of Indebtedness

Table 5.41 presents information on total debt, average debt, debt asset ratio and incidence of indebtedness for rural and urban households among Scheduled Tribes and all social groups. In rural areas, if we see the distribution of total debt in relation to the distribution of households, the share of total debt in relation to their share of households is relatively small among Scheduled Tribes. Further, interclass concentration ratio is quite less for Scheduled Tribes (39.21 percent). Table 5.41 also reflects average debt of Scheduled Tribes (Rs. 3205), which is lower than that of all social groups (Rs. 7539). Debt asset ratio among Scheduled Tribes (2.3) is lower than the aggregate (2.8) in rural areas. As regards the incidence of indebtedness, Scheduled Tribes have the least share (17.9 percent), whereas all social groups have higher share of IOI to the tune of 26.5 percent.

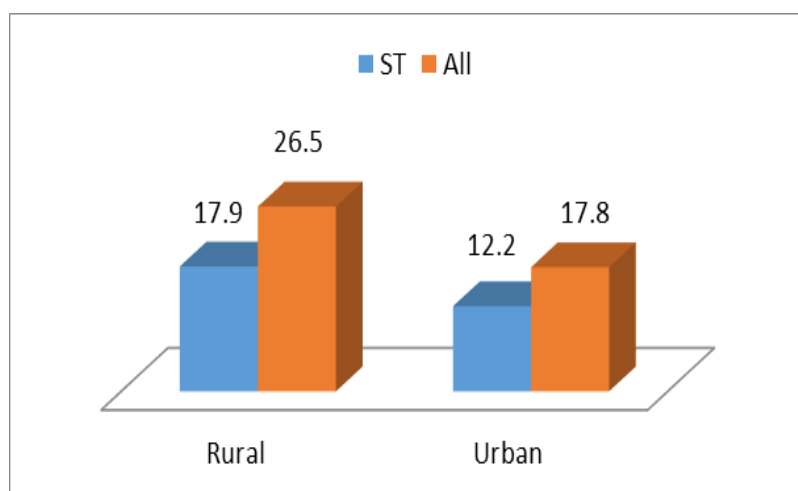
⁶⁰ K. Balchand, *Now, Planning Commission lowers the poverty line*, *The Hindu*, March 20, 2012.

Table 5.41: Total Amount of Outstanding Cash Dues (TD), Average Debt (AOD) per Household, Average Value of Assets (AVA), Debt Asset Ratio (DAR), Incidence of Indebtedness (IOI) as on 30.6.02 for each social group

S.No	Social Groups	No. of est. households ('00)	Percent Distribution of Households	Total Debt (Rs. crores)	Percent Share of Debt	Average of Debt per HH (Rs.)	Average Value of Assets (Rs.)	Debt Asset Ratio (%)	IOI (%)
<u>Rural</u>									
1	ST	150825	10.2	4834	4	3205	136640	2.3	17.9
2	Others	394457	26.7	41171	37	10437	429513	2.4	25.7
3	All	1478529	100.0	111468	100	7539	265606	2.8	26.5
<u>Urban</u>									
1	ST	16547	3.0	1528	2	9233	240295	3.8	12.2
2	Others	264851	47.7	35959	55	13577	560362	2.4	15.3
3	All	554976	100.0	65327	100	11771	417158	2.8	17.8

Source: NSSO (2006), April, p.23; Note: 1. DAR is derived as follows: $DAR = (AOD/AVA) * 100$; 2. 'All social groups' includes households with n.r. cases of social group Incidence of Indebtedness.

Figure 5.37: Incidence of indebtedness among Scheduled Tribes and other groups (percent)



In urban areas, while the percentage distribution of households among Scheduled Tribes is 3.0 the percentage share of debt is 2. However, average debt for Scheduled Tribes (Rs.9233) is higher than that of all social groups (Rs. 11771). The debt asset ratio among Scheduled Tribes is 3.8percent, which is higher than at the aggregate level (2.8 percent). Just as in rural areas, the IOI is the least among Scheduled Tribes (12.2 percent).

5.10 Recommendations

1. There is a dire need to establish agro-based training institutions and related labour-intensive processing industries in tribal regions. Terms and quantum of micro-credit should be made reasonable for individuals, SHGs, cooperative institutions and Gram Sabhas in Scheduled Areas for the tribes to pursue these occupations.
2. In order to make use of land available with the tribal farmers, they should be motivated to undertake organic farming and eco-forestry. This requires concerted efforts by the Departments of Agriculture and Forest to motivate the tribal farmers to undertake such activities.
3. Although majority of STs have land and cultivation is their main occupation, water for agriculture is the greatest impediment in production. Micro watershed development program with people-centered participatory approach is a good method for poverty reduction through natural resource management in tribal regions. Therefore, micro watershed should be given top-most priority in tribal areas to enhance agricultural productivity.
4. It is imperative to strategize water management in degraded and undulating land, dependent on erratic monsoon. Water conservation through large dams has been proved contrary to the interests of the tribes. Therefore, the best strategy would be to construct water harvesting structures on various small and large water sources. Even on big rivers, small water harvesting structures could be constructed, which would be environment friendly.
5. The deprivation of STs of cultivated land adds to their marginalization and penury. This warrants the prevention of all kinds of tribal land alienation through strict enforcement of laws and restoration of alienated land to the tribal owners as per the provisions of the PESA and the confirmatory Acts by various States. There should be monitoring agencies at the National and State levels to prevent alienation of tribal land and its restoration.
6. Since tribal inhabited regions have good forest cover (with or without trees now), they should be allowed to participate in the protection and management of forests. The newly acquired land under FRA, 2006 could be utilized in eco-forestry rather than for food grain cultivation, which could give more return to the ST farmers, in case they want to opt for it.
7. Credit and marketing facilities need to be extended to the STs. Delivery of social justice must be monitored by the National Commission for Scheduled Tribes, both at the national and state levels.

8. There is severe under-representation of STs and pending vacancies in Central Government services. As far as the representation of STs in Public Sector Banks, Financial Institutions and Insurance Companies, STs accounts for 6.55 per cent, which is less than the mandatory 7.5 per cent of ST reservations to be followed by these institutions. Therefore, the Government should follow a transparent policy with regard to jobs for STs in public sector. No ST candidates who fulfill the basic eligibility criteria for a specific post should be rejected on the ground of no suitable candidates found.
9. The discriminatory credit policy of the financial institutions is a major deterrent in the participation of STs in business. Entrepreneurs among STs must be given credit facility on par with other social groups. Further, all steps must be taken by the Government for skill development among the tribal youth to make them employable or self-employed, according to their aspirations.
10. The participation of STs in MGNREGA has been decreasing from its inception in 2006. This trend is very disturbing, which should be investigated and monitored by a special agency under the administrative control of MoTA.
11. Tribals should be encouraged to use their traditional knowledge to meet their needs by recreating their forest ecosystem and forest-based livelihood.
12. The Particularly Vulnerable Tribal Groups (PVTGs) among the tribes need special attention due to their vulnerability in the present situation. Their customary right to land, forest and sources of livelihood must be respected and protected. The issue of nomenclature must be addressed by commissioning a special study. MoTA should ensure that all states having PVTGs should take steps to have micro-projects for individual PVTGs to utilize the grants received under SCA. The Project Offices for PVTGs should be made to report to the MoTA about the development activities undertaken for the PVTGs under their jurisdiction, rather than submitting allocation and expenditure statements.
13. Data on development parameters with respect to STs are not available for the purpose of policy planning and implementation. Therefore, a National Institute of Tribal Development, an autonomous research organization, has to be set up exclusively for undertaking research on STs.

6. Education

6.1 Introduction

This chapter presents an interface of the Government policy of educating the tribals of India and their actual educational status. It traces the evolution of the Government policy, detailing perceptions about education for tribals and measures taken by the Government to address the situation. The chapter further examines the impact of these policies, with the help of available data. While there is a brief reference to the period prior to the National Policy on Education, 1986, emphasis is placed on developments in the last two decades. In 1992, the Government re-issued the National Policy by adding certain focus as well as a Program of Action, wherein several new schemes were introduced in the interest of the weaker sections of society. The Government considers this phase as a 'watershed' one since the new measures yielded distinct results in terms of literacy within a decade.⁶¹

The chapter presents the post-1992 educational developments at the three basic levels of education, namely, primary, secondary and tertiary. But given the complex nature of the problem at the primary level in large parts of tribal India – which has a bearing upon low tribal participation at the secondary and tertiary levels – special attention is paid to primary education.

6.2 Evolution of Educational Policy

The overarching principle of universal free compulsory education is enshrined in Article 45 and Article 46 of the Constitution of India enjoins upon the Indian State the responsibility of taking 'special care' of educational interests of the Scheduled Castes and Scheduled Tribes. At the time of Independence, these governing provisions ensured that the educational needs of the tribals were met with. Living in remote terrains and on the periphery of other social groups, the tribals were culturally exclusive. As compared with non-tribal population, tribals were considered most backward sections of the society. Except for a few pockets in the Northeast and central India, tribal societies were hardly influenced by the modern education system. Available statistics of the time show that the tribal participation in formal schooling was marginal. In fact, the literacy rate of the tribals was only 3.46 per cent in 1951.

The insignificant presence of tribal people owed to the British colonial educational policy, which did not care for the education of the tribal population. Under the well-known colonial 'filtration' theory, education had to trickle down to the masses through the upper classes, who would be the first to be educated at centrally located

⁶¹ *Planning Commission, Government of India, Twelfth Five Year Plan, Volume II, p. 19. While taking literacy as a rough indicator of education, it must be made clear that education is far broader than literacy, which is only one of the skills acquired from learning.*

model institutions. In certain cases, the Government bypassed the filtration route and opened schools in the interior tribal areas, in order to pacify the tribal population, who were protesting against oppression, by teaching them the colonial idea of rule by law.

The opening of schools in the difficult areas of tribal habitation involved extra investment. It also demanded special effort by committed staff, since the tribal people were not used to any organized system of education and did not appreciate the value of colonial Western education. The colonial government depended upon the Christian missionaries to induce and educate the tribals since 1854.⁶² A few government schools and schools run by missionaries, confined to small areas, were all that existed for educating the tribals. Lack of sufficient educational avenues left the tribal people lagging behind other social groups.

Against the background of neglect under British colonialism, the nation's move to reach out to the tribal people educationally through an aggressive program of mass education was a bold move. The epoch was momentous and the spirit came from the urge of democracy and socialism, seeking to empower and shape the backward masses as equal citizens of the country. The mandate of the Constitution captured the nation's resolve. This was clearly visible in the deliberations of the apex national body, the Central Advisory Board of Education (CABE), which devised the National Education Policy. The opening sentence of the Board's blueprint for national education titled *Post-War Educational Reconstruction in India* – 'upon the education of the people of this country the fate of this country depends' – reflected the importance assigned to education in nation-building.⁶³ The national government aimed to achieve universal compulsory education in ten years, by 1960, while CABE drew up a 40-year timeline. The provision under Article 45 of the Constitution binding the state to fulfil the goal of universal compulsory education was not accomplished.

Two Commissions of the Government, namely the Scheduled Areas and Scheduled Tribes Commission (1960-61), chaired by Shri. U.N. Dhebar, and the Indian Education Commission (1964-66) closely examined the low educational level of the tribals, with a view to address the disparity. The Dhebar Commission studied the difficulties of and barriers to tribal education in detail. It found that the problem of absenteeism, stagnation and drop-outs among the tribals were far greater than among other social groups.

6.2.1 Policy Review by Dhebar Commission, 1960

The early years of independence were the age of a predominant nationalist view that the Indian tribes were 'backward Hindus', as propounded by sociologist, G.S. Ghurye.

⁶² 'Despatch from the Court of the Directors of the East India Company to the Governor General of India in Council no. 49 dated 19 July 1854, para 41, in Richey, J.A. ed. *Selections from Educational Records, Part II*, New Delhi: National Archives of India, 1965, p. 376.

⁶³ Bureau of Education, *Post-War Educational Development in India: Report by the Central Advisory Board of Education*, Delhi: Manager of Publications, 1944.

Called 'vanavasi' or 'adimjati', the tribals were believed to be primitive savages, in dire need of 'civilization' by the agency of the advanced plainsmen. Just before the institution of the Dhebar Commission, the then Prime Minister, Shri. Jawaharlal Nehru enunciated a set of tenets on the tribal question and development in a foreword to the second edition of Verrier Elwin's book, *A Philosophy for NEFA*, which reversed the established view. Nehru pleaded that development of the tribals should be 'along the lines of their own genius' and effort should be made not to impose anything on them from outside. Further, he suggested encouragement to tribal traditional arts and culture. Nehru also disapproved of the paternalism of outsiders and wanted to train and build the tribals' capacity to carry out the work of administration and development.

The tone set by Nehru impacted the Dhebar Commission. Thus, in the field of education, the Commission distinctly departed from the earlier approach and policies. The Commission recognized pedagogical ingredients in tribal culture and wanted to make use of tribal language and cultural resources, such as folklore, songs and history in teaching. The Commission was aware that such far-reaching intervention required re-orientation of teachers, revision of curriculum and development of instructional materials. Recognizing the crucial role of teachers in the whole educational process, the Commission suggested their complete familiarity with tribal life, culture and language, and appealed to the teachers to be the tribals' friend, philosopher and guide. To remove the existing cultural gulf between teachers and students, the Commission recommended appointment of teachers from the tribal community, opening teacher training centres in the tribal heartlands and raising a separate cadre of teachers for a period of twenty years.⁶⁴

The Dhebar Commission went on to establish the appropriateness of Mahatma Gandhi's concept of 'basic education' to the tribal societies. Gandhi's concept centred on craft as the means of teaching and learning, and using the vernacular language as the medium of instruction. Conceived to educate the rural population, the idea was an alternative to formal, literary and colonial Western system of education. But, detailed pedagogy along the lines of what Gandhi suggested was not formulated, especially in the context of the tribal societies.

Besides examining the central problem of approach of tribal education and role of teachers in the system, the Commission attended to other problems such as poverty-related issues and children engaged in household work. This paved the way for the making of a broader policy of tribal education. The Commission, thus, stressed the need for mid-day meals, clothing, free books, reading and writing materials to all tribal children in educationally backward areas. The Commission further considered the children's difficulties on account of topographical factors and recommended

⁶⁴ Government of India, *Report of the Scheduled Areas and Scheduled Tribes Commission, Volume I 1960-61*, Delhi: Government of India Press, 1961.

opening schools in a locality where there were at least 30 school-going children, though the general norm should be a school within one mile. The Commission then suggested adjustment of timing, vacations and holidays of schools to suit the tribal social and cultural life. It even proposed creation of an ambience of tribal culture in the schools.

The Indian Education Commission endorsed the suggestions and recommendations of the Dhebar Commission, adding a note of urgency that ‘intensive efforts’ need to be made to provide five years of early education to all tribal children by 1975-76.⁶⁵ In order to achieve this, the Commission wanted the support of simultaneous intensive parental education.

6.2.2 Sluggish Trend of Growth

The Education Commission’s plea remained unfulfilled. Literacy rate increased from 8.54 in 1961 to 11.3 per cent in 1971, rising marginally to 16.35 per cent in 1981. Within this, tribal female literacy rate was much lower, at 4.85 per cent in 1971 and 8.04 in 1981. Three decades of experience of tribal education (1951-81) indicated clear trends at the primary level: first, the tribals’ educational status grew at a slow pace; second, there was a wide gap between the literacy rate of the tribals and the general population (Table 6.1); and third, there was a high dropout rate, especially at the primary level; the drop-out was of chronic nature as the country-wide data portrays (Table 6.2 and 6.3).

Table 6.1: Scheduled Tribe Literacy Rate and Gap, 1961-1981

Year	ST	SC	GEN	Gap between ST and SC	Gap between ST and GEN
1961	8.54	10.27	27.86	1.73	19.32
1971	11.29	14.67	33.80	3.37	22.5
1981	16.35	21.38	41.30	5.03	24.95

Source: Census of India, authors’ calculation from census of India, various years

Table 6.2: Scheduled Tribe Drop-out Rate in Comparison, 1980-81

Year	ST			SC			GEN		
	I-V	I-VIII	I-X	I-V	I-VIII	I-X	I-V	I-VIII	I-X
1980-81	75.66	86.71	91.18	60.16	76.85	86.91	58.70	72.70	82.46

Source: MHRD, GOI, Educational Development of Scheduled Castes and Scheduled Tribe, Status and Programs, August-2005

⁶⁵ National Council of Educational Research and Training, *Education and National Development: Report of the Education Commission 1964-66*, New Delhi: NCERT, 1970, pp. 245-46.

Table 6.3: State-wise Scheduled Tribe Drop-out Rate from Class I-X, 1981-82

Level of Education	Primary Stage (Class I-V)			Middle Stage (Class I-VIII)	Secondary Stage (I-X)
	Boys	Girls	Total	Total	Total
State					
Andhra Pradesh	64.83	73.81	68.1	85.4	91.01
Assam	73.53	79.83	76.22	88.37	71.34
Bihar	78.89	83.91	80.58	86.06	92.66
Gujarat	69.35	78.27	72.94	77.11	85.79
Haryana	-	-	-	-	-
Himachal Pradesh	39.97	49.28	43.05	61.99	80.45
Jammu & Kashmir	-	-	-	-	-
Karnataka	48.14	48.09	48.12	26.98	45.53
Kerala	39.04	34.64	37.16	45.1	69.5
Madhya Pradesh	66.46	80.39	70.65	84.53	97.13
Maharashtra	70.41	80.18	74.22	85.08	90.55
Manipur	85.69	84.89	85.36	90.84	91.82
Meghalaya	76.86	76.62	76.74	84.75	89.81
Nagaland	75.09	76.59	75.75	87.84	91.04
Odisha	75.39	83.36	77.99	91.23	94.04
Punjab	-	-	-	-	-
Rajasthan	69.35	84.9	71.48	82.8	86.07
Sikkim	-	-	-	-	-
Tamil Nadu	34.68	41.68	37.59	72.01	85.43
Tripura	67.61	73.8	69.76	87.97	93.93
Uttar Pradesh	0	5.62	0	53.69	82.02
West Bengal	70.84	65.64	69.27	87.04	93.33
Union Territories					
A&N Islands	50.1	39.17	45.74	43.64	74.91
Arunachal Pradesh	77.22	78.18	77.53	87.91	92.93
Chandigarh	-	-	-	-	-
Dadra and Nagar Haveli	73.6	81.65	76.43	93.64	98.17
Delhi	-	-	-	-	-
Goa, Daman and Diu	63.19	73.33	66.38	87.31	91.8
Lakshadweep	1.03	16.25	8.01	51.2	66.39
Mizoram	61.61	64.13	62.83	67.86	80.63
Pondicherry	-	-	-	-	-
India	71.57	78.43	74	84.99	91.65

Source: Ministry of Human Resource Development (Department of Education), reproduced in Report of the Commissioner for Scheduled Caste and Scheduled Tribe 1986-87 (28th Report).

With 91.65 per cent of the tribal students dropping out by Class X, their higher education also suffered. Table 6.4 below shows that the tribals' overall participation in higher education was just 1.62 per cent compared to 91.3 of the general population and 7.08 per cent of the Scheduled Castes. Discipline-wise presence at different levels of higher education shows that in science and technical subjects, the Scheduled Tribes were below one per cent.

Table 6.4: Discipline and Level-wise Scheduled Tribe Presence in Higher Education, 1978-79

Course	ST	SC	GEN
1. Under Graduate			
Arts	2.48	9.85	87.67
Science	0.83	4.44	94.73
Commerce	1.27	4.76	93.97
2. Post Graduate			
Arts	1.93	10.54	87.53
Science	0.79	2.93	96.28
Commerce	1.29	5.42	93.29
3. Education			
Undergraduate	1.30	6.24	92.46
Postgraduate	0.68	3.42	95.9
4. Engineering/Technology			
Undergraduate	1.20	6.16	92.64
Postgraduate	0.18	1.92	97.9
5. Medicine			
Undergraduate	1.82	9.98	88.2
Postgraduate	0.50	3.69	95.81
6. Agriculture			
Undergraduate	0.71	8.39	90.9
Postgraduate	0.87	4.48	94.65
7. Veterinary			
Undergraduate	1.14	7.02	91.84
Postgraduate	-	1.37	98.63
8. Law			
Undergraduate	1.32	7.02	91.66
Postgraduate	0.17	1.37	98.46
9. Others			
Undergraduate	0.42	5.93	93.65
Postgraduate	0.56	3.56	95.88
Total	1.62	7.08	91.3

Source: Report of the Commissioner for Scheduled Castes and Scheduled Tribes, 1986-87 (28th Report)

6.3 Early Educational Planning

Periodic government surveys and assessments revealed stark facts on poor educational status of the tribals. The Fourth All India Educational Survey, (1978) for instance, found that 83 per cent of the tribal people were covered by a school within a radius of one kilometre. At the same time, more than 25,000 tribal habitats had no school at all. As far as secondary schooling was concerned, 82.18 per cent of the tribal population was within eight kilometres reach of secondary school, while only 18.8 per cent of them had access to higher secondary school.⁶⁶ In the case of the tribal habitats, often circled by forests and hills, the distance of one or eight kilometres did not present the real picture of access to schools.

During the First Five Year Plan period, the government attended to 'pre-matric' and 'post-matric' educational needs of the tribals. Some 4,000 schools were established in the tribal areas. This included 1,000 Ashrams and Sevashram Schools and 650

⁶⁶ NCERT, *Fourth All India School Education Survey*, New Delhi: NCERT, 1978.

Sanskar Kendras, Balwadis and Community Centres in the central tribal belt between Odisha in the east and Rajasthan and Maharashtra in the west. Besides, assistance was given to tribal students by way of scholarships, grants, hostel fees, etc. The Second Five Year Plan carried forward work in similar line.⁶⁷

The government interest seems to have been more on secondary, higher secondary level and higher education. Despite the promises of high importance to primary education, elementary education was neglected, as can be seen in the details of the first two Five Year Plans (Table 6.5). Immediately after Independence, the Government had constituted two Commissions, one each on University education and secondary education, but so far as the outstanding problem of primary education was concerned, the Government had set up a committee to examine the same.

Table 6.5: Field-wise Distribution of Plan Outlay in the First and Second Plans

Fields of Education	First Plan (Rs. in crores)	Second Plan (Rs. in crores)
Elementary Education	93	89
Secondary Education	22	51
University Education	15	57
Technical and Vocational Education	23	48
Social Education	5	5
Administration and Miscellaneous	11	57
Total	169	307

Source: Planning Commission, 2nd Five Year plan (1956-61), p.1 (www.planningcommission.nic.in/plans)

The Government, in this initial phase, paid special attention to educational grooming of the tribal children in Ashrams, viz. hostels and residential schools, segregating them from their homes and habitats. The consideration occasionally was to bring children to relatively central locality from remote parts where opening school was immediately not possible. But the guiding principle was that the tribal people were savage and wild, who needed to be civilized by the means of education outside the tribal social and cultural life.⁶⁸ With this in mind, a step further in the direction of Ashram proposition was opening of the ‘Sanskar Kendras’ to re-orient children in upper-caste Hindu cultural norms. Such importance assigned to residential school concept, led, later on, to the tendency of Ashramization of the whole program of tribal education.

The Sixth Five Year Plan (1980-85) estimated that 56 per cent of the tribal children of the country (49 per cent boys and 70 per cent girls) were yet to receive elementary

⁶⁷ Government of India, Report of the Scheduled Areas and Scheduled Tribes Commission, Volume I 1960-61.

⁶⁸ For the application of this idea in Ashram mode of education see, Bilthare, D.P., ‘Adimjatiyon Ka Sikshan’, in Report of the Second Conference for Tribes & Tribal (Scheduled) Areas, Lohardaga, 11, 12 and 13 November, 1953, Delhi: Bharatiya Adimjati Sevak Sangh, 1954, pp. 166-76.

education.⁶⁹ After deliberating on the previous challenges, a National Policy on Education was framed in 1986. Recognizing that the situation of stagnancy at primary school level bore upon overall low participation of disadvantaged sections at upper levels, the Seventh Five Year Plan (1985-90) set out to give ‘overriding priority’ to universalization of elementary education for the children of age-group 6-14 years by 1990.⁷⁰

6.4 National Policy on Education, 1986

To realize the universalization of elementary education, the National Policy, 1986, continuing presently, reiterates the earlier resolve to ensure that ‘up to a given level, all students, irrespective of caste, creed, location or sex, have access to education of a comparable quality’.⁷¹ The policy suggests that government initiate appropriately funded programs. For implementing equal opportunity in letter and spirit, not only access is emphasized, but the conditions for success are also to be created. The Union Government shoulders the responsibility of re-enforcing the national and integrative character of education and maintaining quality and standards.

The education of the tribal masses receives special attention from the government in the policy. By the 1980s, educational planners were clear about the problem of tribals at this stage – poor school facilities, unrelated curriculum, poor methods of teaching and poverty – all of which were discussed at length by the Dhebar Commission. Based on an understanding of these problems, the 1986 Policy recommended a number of measures. Given the fact that ten per cent of rural habitations yet to be covered by primary school within radius of one km were largely tribal habitations in the interior areas, the government prioritized construction of school buildings under schemes like the Jawahar Rojgar Yojna, Tribal Welfare Schemes, etc. The development of curricula based on the socio-cultural milieu of tribals and of instructional materials in tribal languages, with provision for switching over to regional languages, is another priority of the policy. Besides, the policy suggests expansion of residential schools, including Ashram Schools, Anganwadis and Adult Education Centres. For teaching jobs in tribal areas, it seeks to encourage and train tribal youth. To promote tribals in higher education, especially in technical, professional and para-professional courses, the policy gives incentives by way of scholarships, special remedial courses and other programs to remove psycho-social impediments. Finally, to create awareness of the tribals’ rich cultural identity and to promote their enormous creative talent, the policy recommends suitable designing of curriculum at all stages of education.

⁶⁹ Planning Commission, Government of India, Sixth Five Year Plan (1980-85) planningcommission.nic.in/plans/planrel/fiveyr/6th/6planch21.html, p. 2.

⁷⁰ Planning Commission, Government of India, Sixth Five Year Plan (1980-85) planningcommission.nic.in/plans/planrel/fiveyr/7th/vol2/7v2ch10.html, pp. 4-5.

⁷¹ Ministry of Human Resource Development, Government of India, National Policy on Education (as modified in 1992), New Delhi, 1998, pp. 3,5.

Besides these, the policy includes certain general points that are significant for the tribals. On elementary schooling, it emphasizes universal access and enrolment, universal retention of children up to fourteen years of age and a substantial improvement in the quality of education. The policy resolves to give 'highest priority' to solving the problem of drop-outs and promised to adopt 'an array of meticulously formulated strategies based on micro-planning.' Adopting 'a warm, welcoming and encouraging approach', it allows learners, especially first generation learners, to set their own pace of learning. It, therefore, underscored a no-detention policy at the primary stage. At the secondary level, the policy stood for widening the educational access of the weaker sections and promoting vocational education as a distinct stream.

The government launched Operation Blackboard in 1987 and the National Literacy Mission in 1988. The Literacy Mission aimed to create a positive outlook among the adult population to encourage the compulsory elementary education of children. Operation Blackboard was meant for providing basic infrastructure and essentials of schooling like classrooms, teachers and so on. Further, a scheme of Restructuring and Reorganization of Teacher Education was taken up in 1987. Complementing the work of the Ministry of Human Resource Development, the government launched in 1990-91, under its tribal division, fresh Ashram Schools from the primary to secondary level in Tribal Sub-Plan areas with an equal fund sharing arrangement between Centre and the States.

After the policy revision exercise was complete, the government drew out a Program of Action (1992). Important steps listed in the Program in the interest of the tribals are:

- provision of primary school or other suitable institution in every tribal habitation before the end of the Eight Five Year Plan (1992-97)
- implementation of educational plan in an integrated manner by the coordination of Balwadis, non-formal education, adult education and elementary education under an Educational Complex
- making teachers responsible for enrolment drives at the beginning of academic session with the help of voluntary agencies and local communities
- covering, under Operation Blackboard, within two years, all schools in tribal areas, irrespective of the date on which they were set up
- preparation of instructional materials in tribal languages with a view to teaching them through tribal languages in the initial stage with a provision for transition to regional languages
- linking rates of pre-matric and post-matric scholarships with the increase in the cost of living index, and disbursing scholarships to students of upper primary school level and above through banks/ post-offices, in advance on the first day of each month

- organization of special coaching, training and remedial teaching classes in order to enhance scholastic achievement, and providing residential facility to those preparing for competitive examinations
- giving additional scholarships to girl students at secondary and senior secondary stage, and providing them special coaching and remedial classes
- providing quality reading material in cheap rate from Indian and foreign languages by abridging, adapting and translating, and lastly,
- raising teachers from the community to meet the shortage of teachers, through short courses, specifying District Institutes of Educational Training for teacher training on a large scale with a long-term perspective.

The Government revamped the scheme of grant-in-aid to voluntary organizations, specially modifying the rules to provide for 100 per cent assistance, rather than 90 per cent. Towards promotion of girls' education, in 1993-94, the scheme of 'Educational Complex' in 136 districts with low literacy pockets was introduced. The complex was meant for 50 girls of the primary school stage with free food and lodging, uniform and other facilities, with the additional provision of training in crafts and vocation. Another initiative of the government was the District Primary Education Program (1994) with partial funding from the World Bank. Soon after, the National Program of Nutritional Support, providing each primary school student with three kilograms of food grains per month, was launched in 1995. Further, a Minimum Level of Learning program was introduced, with the objective of ascertaining competencies, which all primary school students should be able to master in language, mathematics and environmental studies. Further, it aimed to develop curricula and textbooks in relation to the above mentioned objective. Additionally, in order to reduce the burden of learning in the early stage that would greatly help tribal students, the Government constituted a committee in 1993, which expeditiously recommended ways and means to make learning burden-free.⁷²

At the secondary education level, the Government promoted the program of vocationalization. This was relevant to the tribals in view of their high drop-out rate at the secondary school level and subsequent unemployment. The program was introduced in accordance with the National Policy guideline that aimed at ten per cent higher secondary students in vocational courses by 1995 and 25 per cent by 2000. In 1993-94, a program of pre-vocational training for students of Class IX and X was initiated. The idea behind this was to impart training in simple marketable skills and develop student interest in the vocational stream at the senior secondary level. An attempt was also made to reach out to the weaker sections by expanding the National Open School System, whose study centres increased from 161 in 1990-91 to 666 in 1996-97. Of these centres, 105 were for vocational studies.

⁷² A committee chaired by Professor Yash Pal prepared a report titled, *Learning Without Burden*, 1993.

6.5 Flagship Programs at Three Levels

The positive outcome of some of the schemes mentioned above, inspired educational planners to conceive of similar missions in a more coordinated manner. Thus, a mission era set in. Since the year 2000, three missions, one each on elementary education, secondary education and higher education, called ‘Sarva Shiksha Abhiyan’, ‘Rashtriya Madhyamik Shiksha Abhiyan’, and ‘Rashtriya Uchchar Shiksha Abhiyan’ respectively, have been launched. Each mission takes care of the tribal interest in various ways. The measures under these missions are comprehensive and all-encompassing. Most of the measures are beyond the routine government policy of positive discrimination. The missions, thus, promise to break the long-standing stalemate of unsatisfactory participation of the tribals at different levels of education.

The first, Sarva Shiksha Abhiyan, has been introduced for the achievement of Universalization of Elementary Education in time-bound manner, which is a scheme of the Centre in partnership with the States, addressing the needs of 192 million children in 1.1 million habitations.⁷³ The target of the program was to enable all children complete five years of primary schooling by the year 2007 and eight years of schooling by 2010. The program is the culmination of all previous endeavours and experiences of the government in the education domain. The program focuses, through a variety of interventions, on universal access and retention, bridging of gender and social category gaps, and improving the quality of learning. With a view to create conditions of equity in real terms, the program seeks to open new schools in those habitations which lack schooling facility and strengthen the existing school infrastructure. It also provides for additional teachers in schools facing shortages, special teacher training and grants for developing teaching-learning materials. The project follows community-based approach in planning, where habitation is the unit for district-level plans.

The Government strengthened the education policy through the Constitution (Eighty-Sixth Amendment) Act, 2002, making free and compulsory education of the children of age-group, 6-14 years, a Fundamental Right. The Government worked out clear norms on various matters ranging from Centre-State cost-sharing to teacher-student ratio, school space, distribution of free study materials, and so on. To make the project a success, the Government ensured sustained financing. An important support to the program also came from the National Program of Nutritional Support to Primary Education, popularly known as Mid-Day Meal scheme, which was later revised to make it more effective. The Government claimed that during 2004-05, about 10.88 crore children availed of the Mid-Day Meal scheme. Another important initiative was the establishment of residential upper-primary schools, called Kasturba Gandhi Balika

⁷³ The details here are from, Ministry of Human Resource Development, Government of India, ‘Educational Development of Scheduled Castes and Scheduled Tribes: Status and Programmes’, August 2005, and Ministry of Human Resource Development, Government of India, ‘Background Paper’, First Meeting of National Monitoring Committee for Education of Scheduled Castes, Scheduled Tribes and Persons with Disabilities, 27 June 2012, New Delhi, mimeo.

Vidyalaya, for 'hard to reach' girls, which would largely comprise tribals. These schools were meant for educationally backward blocks. In the first phase, 750 such residential schools were planned.

Confident of having built a sound base of primary education, the Government mooted a national mission at the secondary level of schooling, since 2005 under the forums of the Central Advisory Board of Education and the Planning Commission. Finally, the mission, 'Rashtriya Madhyamik Shiksha Abhiyan', was inaugurated in 2009. The Government made the case for the mission from the statement of the National Policy, 1986 that the access to secondary education would be widened 'with emphasis on enrolment of girls, Scheduled Castes and Scheduled Tribes, particularly in science, commerce and vocational streams.' The mission's objectives are the following: i) to achieve a gross enrolment ratio of 75 per cent for classes IX-X within five years by providing a secondary school, within a reasonable distance of every habitation, ii) to improve quality of education by making all secondary schools conform to prescribed norms, iii) to remove gender, socio-economic, geographic and disability barriers, iv) universal access to secondary level education by 2017, that is, by the end of the Twelfth Five Year Plan, and v) universal retention by 2020.⁷⁴

Within this framework, detailed strategies in the interest of the tribals and other weaker sections have been worked out. To widen access, the steps are: expansion of existing schools; upgrading upper primary schools, particularly Ashram schools and open new schools in under-served areas. In the interest of the tribals, the norm of a secondary school in the five kilometre radius is relaxed. For enhancing equitable participation, the measures include: more residential facilities with improved living condition; free uniform, books and cash incentive for girls; merit scholarship; and expansion of distance learning system. For the improvement of quality, the measures are: better classroom facilities, laboratories, libraries, and computer rooms, appointment of additional teachers, in-service training of teachers and providing residential facilities to teachers, including female teachers. Another important strategy to help the tribal learners is the deployment of resource agencies, for developing locale-specific supplementary materials to bridge the cultural and linguistic gaps and training of teachers accordingly. Specific measures at the district level are supposedly based on extensive consultation with the households, villages and Gram Sabhas/wards.

The latest mission, the Rashtriya Uchcharat Siksha Abhiyan, was initiated in September, 2013, alongside introducing the Rajiv Gandhi Fellowship, Centres for Studies in Discrimination and Exclusion, Indira Gandhi National Tribal University and a number of Central Universities, more Indian Institutes of Technology and Indian Institutes of Management in the interest of the weaker sections and the tribals.

⁷⁴Rashtriya Madhyamik Shiksha Abhiyan', Ministry of Human Resource Development at http://mhrd.gov.in/rashtriya_madhyamik_shiksha_abhiyan (last visited 30 May 2014).

The mission, beyond these, spreads over two Five-Year Plan periods.⁷⁵ It stands for a ‘strategic intervention for the improvement of access, equity and quality’ in country’s higher education through a special centrally-sponsored scheme. The idea is inferred from the earlier University Commission, 1949 and the Indian Education Commission, 1964, which the National Education Policy, 1986 carried forward. The Rashtriya Uchchatar Siksha Abhiyan focuses on State Universities and institutions under them, funded by the Government, since they cater to 94 per cent of students. Taking note, that Gross Enrolment Ratio of Scheduled Castes, Scheduled Tribes and Other Backward Castes is far below than that of the general population, the mission talks about greater access with special emphasis on rural and tribal areas.

6.5.1 Outcome of the Missions

All the three missions have been concerned about problems associated with tribal education, namely, low enrolment, high drop-out rate and low level of learning. Several measures undertaken through the mission addressed these core issues. An assessment of the programs shows that, in many respects, there has been an improvement across the education levels, as the following observations indicate:

- The gap between Scheduled Castes and Scheduled Tribes and the other social groups in terms of access to school education has significantly narrowed down. Under Sarva Shiksha Abhiyan specially, massive infrastructure development took place. The number of schools and teachers has increased. Over 3 lakh new schools were opened and existing schools were equipped with basic facilities. The average student-classroom ratio came down from 39 in 2005-06 to 32 in 2009-10. The chief beneficiaries of these developments were the tribal regions.⁷⁶
- Tables 6.6 and 6.7 show that between 1993-94 and 2007-08, the number of tribal households within 1 kilometer of the vicinity of primary school rose from 77.12 per cent to 88.46 per cent. The rise was discernible more in the rural areas, where it rose from 73.86 per cent to 88 per cent. Similar trends can be seen at the upper primary and secondary level of schooling. Sizeable percentage of Scheduled Tribe households was within 1 kilometre reach of the upper primary school (54 per cent) and of secondary school. The increase of this facility among the rural Scheduled Tribe population in respect to the upper primary school was striking.
- The trend of enrolment of the tribals at different stages of education shows that there is a steady decadal rise. When compared with the Scheduled Castes and the general categories, the growth of Scheduled Tribe enrolment is most steady (Table 6.8). Table 6.9 on Gross Enrolment Ratio corroborates the trend

⁷⁵ See the Mission’s vision and other details in the Ministry of Human Resource Development, *Rashtriya Uchchatar Siksha Abhiyan: National Higher Education Mission*, September 2013.

⁷⁶ Planning Commission, *Government of India, Twelfth Five Year Plan 2012-2017, Social Sectors, Volume III*, New Delhi: Sage Publications, 2013, p.49.

of continuous rise of Scheduled Tribe enrolment at all levels of education shown in the previous table in the two decades considered here. In most cases, the GER of Scheduled Tribes at the primary and the upper primary level of schooling is higher than that of the Scheduled Castes and the General categories.

- Available statistics show that the Government efforts in the last two decades have been able to contain the drop-out rates (Table 6.10). The rate has almost continuously declined. Given the record of somewhat static situation earlier, this was a major achievement. The incidence is specially checked in the initial stage, namely, Class I–VIII.
- Related to the above, there is decline in the number out-of-school children, as can be seen from the statistics of the Ministry of Human Resource Development in the period between 2005 and 2009.

Table 6.6: Distance between Household and Nearest Primary School, 1993-94 to 2007-08 (per cent)

Groups	Percentage of Households									
	1km		2km		3km		4km		5km	
	1993-94	2007-08	1993-94	2007-08	1993-94	2007-08	1993-94	2007-08	1993-94	2007-08
Total										
ST	77.12	88.46	13.39	8.25	6.27	2.35	3.21	0.36	-	0.58
SC	84.31	92.29	12.47	6.57	2.87	0.92	0.35	0.19	-	0.03
GEN	85.07	92.15	11.46	6.58	2.97	1.03	0.50	0.19	-	0.05
Total	83.94	91.67	11.87	6.81	3.37	1.19	0.82	0.21	-	0.12
Rural										
ST	73.86	88.00	14.85	8.32	7.45	2.52	3.84	0.43	-	0.72
SC	81.09	92.36	14.83	6.38	3.66	0.99	0.42	0.24	-	0.03
GEN	80.43	91.86	14.17	6.67	4.70	1.17	0.70	0.24	-	0.06
Total	79.43	91.31	14.41	6.89	4.98	1.36	1.19	0.27	-	0.17
Urban										
ST	92.57	90.26	6.48	7.95	0.72	1.67	0.23	0.08	-	0.03
SC	91.35	92.11	7.30	7.05	1.14	0.75	0.20	0.05	-	0.04
GEN	91.01	92.59	7.99	6.44	0.76	0.82	0.24	0.11	-	0.04
Total	91.15	92.33	7.81	6.64	0.81	0.88	0.23	0.10	-	0.04

Source: NSS 52nd and 64th Round

**Table 6.7: Distance between Households and Upper Primary/Secondary Schools
(per cent)**

Group/ School	1km		2km		3km		4km		5km	
	Upp. Prim.	Sec. Sch.	Upp. Prim.	Sec. Sch.	Upp. Prim.	Sec. Sch.	Upp. Prim.	Sec. Sch.	Upp. Prim.	Sec. Sch.
Total										
ST	54.6	31.1	15.8	15.3	13.2	15.1	8.8	13.2	7.6	25.3
SC	62.1	40.6	17.6	19.9	12.2	16.9	5.8	11.7	2.2	10.9
OBC	64.5	40.4	16.6	19.2	10.6	15.5	5.5	12.8	2.7	12.2
GEN	62.2	52.4	18.3	20.2	11.7	12.2	5.1	8.0	2.7	7.2
Total	61.8	42.8	17.1	19.1	11.6	14.7	6.0	11.2	3.4	12.3
Rural										
ST	54.6	22.9	15.8	12.7	13.2	16.9	8.8	16.1	7.6	31.3
SC	62.1	31.8	17.6	17.4	12.2	20.6	5.8	15.4	2.2	14.8
OBC	64.5	28.9	16.6	16.9	10.6	19.4	5.5	17.4	2.7	17.4
GEN	62.2	34.4	18.3	19.4	11.7	19.0	5.1	13.9	2.7	13.4
Total	61.8	29.7	17.1	16.9	11.6	19.1	6.0	16.0	3.4	18.3
Urban										
ST	80.2	63.1	15.2	25.5	3.2	7.9	0.9	1.9	0.5	1.6
SC	79.3	63.2	17.4	26.4	2.5	7.3	0.6	2.1	0.1	0.9
OBC	81.9	65.1	14.5	23.9	2.7	7.0	0.7	2.9	0.2	1.1
GEN	83.8	70.6	13.6	21.1	1.8	5.3	0.6	1.9	0.2	1.0
Total	82.2	67.1	14.6	23.2	2.3	6.4	0.6	2.3	0.2	1.1

Source: NSS 64th Round (2007-08)

Table 6.8: Educational Level-wise Enrolment, 1980-81 to 2010-11 of STs and Others (in Lakhs)

Year/Level	Scheduled Tribes						Scheduled Castes						All Categories					
	Primary (I-V)			Upper Primary (VI-VIII)			Primary (I-V)			Upper Primary (VI-VIII)			Primary (I-V)			Upper Primary (VI-VIII)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1980-81	31	15	46	5	2	7	72	38	110	16	6	22	453	285	738	139	68	207
1990-91	49	29	78	11	6	17	97	60	157	27	14	41	570	404	974	215	125	340
2000-01	63	47	110	19	12	31	121	91	212	41	26	67	640	498	1138	253	175	428
2005-06	75	67	142	25	20	45	140	113	253	53	38	91	705	616	1321	289	233	522
2006-07	76	68	144	26	20	46	144	118	262	54	39	93	710	627	1337	298	246	544
2007-08	76	70	146	26	21	47	137	125	262	53	46	99	711	644	1355	310	262	572
2008-09(P)	79	73	152	27	23	50	138	127	265	56	49	105	700	645	1345	294	260	554
2009-10(P)	79	73	152	28	23	51	138	127	265	58	51	109	708	648	1356	318	276	594
2010-11(P)	77	72	149	28	26	54	141	129	270	59	53	112	705	648	1353	328	292	620
Year/Level	Sec./Sr. Sec (IX-XIII)			Higher Education			Sec./Sr. Sec (IX-XIII)			Higher Education			Sec./Sr. Sec (IX-XIII)			Higher Education		
1980-81	2	1	3	NA	NA	NA	9	3	12	NA	NA	NA	76	34	110	35	13	48
1990-91	7	2	9	NA	NA	NA	17	6	23	NA	NA	NA	128	63	191	34	15	49
2000-01	10	5	15	NA	NA	NA	24	14	38	NA	NA	NA	169	107	276	54	32	86
2005-06	13	9	22	4	2	6	34	22	56	10	6	16	223	161	384	88	55	143
2006-07	15	10	25	4	3	7	35	23	59	12	6	18	229	169	398	96	60	156
2007-08	14	10	24	6	3	9	36	27	63	15	9	24	252	193	445	106	66	172
2008-09(P)	16	11	27	6	3	9	37	29	66	14	8	22	256	199	455	112	73	185
2009-10(P)	17	13	30	7	4	11	46	36	82	15	9	24	267	215	482	124	83	207
2010-11(P)	18	14	32	NA	NA	NA	48	39	87	NA	NA	NA	283	229	512	155	111	266

Source: Educational Statistics at a Glance-2012, MHRD. Note: P-Provisional, NA-Not Available. For the Year 2008-09 data on Higher Education is Final

Table 6.9: Educational Level-wise Gross Enrolment Ratio of STs and Others, 1986-87 to 2010-11 (in percentage)⁷⁷

Level/ Year	Scheduled Tribe						Scheduled Castes						All Categories					
	Primary (I-V) 6-10 Yrs			Upper Primary (VI-VIII) 11-13 Yrs			Primary (I-V) 6-10 Yrs			Upper Primary (VI-VIII) 11-13 Yrs			Primary (I-V) 6-10 Yrs			Upper Primary (VI-VIII) 11-13 Yrs		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1986-87	111	68	90	46	22	34	104	65	85	53	27	40	-	-	-	-	-	-
1990-91	125	81	104	54	27	41	126	86	106	69	36	53	95	72	84	80	52	67
1995-96	115	80	97	57	35	47	110	83	97	71	45	59	-	-	-	-	-	-
2000-01	117	86	101	73	48	60	107	86	97	76	53	65	105	86	96	67	50	59
2005-06	131	121	126	78	65	72	126	110	119	81	65	74	113	106	109	75	66	71
2006-07	134	124	129	80	68	74	132	115	124	83	67	76	115	108	111	78	70	74
2007-08	136	131	134	81	70	76	126	124	125	82	78	80	115	113	114	82	74	78
2008-09P	143	139	141	86	78	82	130	130	130	87	84	85	114	114	114	78	74	76
2009-10P	140	137	139	88	79	83	128	129	128	91	87	89	116	115	116	85	78	82
2010-11P	137	137	137	91	87	89	131	133	132	94	91	92	115	117	116	88	83	86

⁷⁷ Gross Enrollment Ratio (GER) is the total student enrollment in a given level of education, regardless of age expressed as percentage of the corresponding eligible official age group population in a given school year (as defined in Educational Statistics at a Glance, Government of India, Ministry of Human Resource Development, Bureau of Planning, Monitoring and Statistics, New Delhi, 2013).

Level/Year	Sec./Sr. Sec. (IX-X) 14-17 Yrs			Higher Edu (18-23)			Sec./Sr. Sec. (IX-X) 14-17 Yrs			Higher Edu (18-23)			Sec./Sr. Sec. (IX-X) 14-17 Yrs			Higher Edu (18-23)		
1986-87	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1990-91	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1995-96	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2000-01	31	19.8	25.7	5.8	2.6	4.2	-	-	-	-	-	-						
2001-02	-	-	-	-	-	-	37	27	33	8	4	6	38	28	33	9	7	8
2005-06	34	23	29	9	5	7	42	31	36	10	6	8	45	36	40	14	9	12
2006-07	36	25	31	10	6	8	44	33	39	12	7	9	45	37	41	15	10	12
2007-08	37	27	32	12	7	10	43	38	41	13	9	11	49	42	46	15	11	13
2008-09P	40	30	35	12	7	9	44	40	42	13	8	11	51	43	47	16	11	14
2009-10P	44	34	39	13	8	10	55	49	52	13	9	11	52	46	49	17	13	15
2010-11P	45	37	42	NA	NA	NA	57	52	55	NA	NA	NA	56	48	52	21	17	19

Sources: Educational Statistics at a Glance-2012, MHRD. Note: P-Provisional, NA-Not Available ,for the year 2008-09 data on Higher Education is Final

Table 6.10: Dropout Rate of Scheduled Tribes and Others, 1990-91 to 2010-11 (in percentage)⁷⁸

ST Students	Scheduled Tribe						Scheduled Castes						All Categories					
	Classes (I-VIII)			Classes (I-X)			Classes (I-VIII)			Classes (I-X)			Classes (I-VIII)			Classes (I-X)		
	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total	Boys	Girls	Total
1990-91	76	82	79	83	88	85	64	73	68	74	83	85	59	65	61	68	77	71-
2000-01	-	-	-	-	-	-	-	-	-	-	-	-	50	58	54	66	72	69
2001-02	67	73	69	80	83	81	59	64	61	71	75	73	-	-	-	-	-	-
2002-03	67	71	69	78	83	80	58	62	60	70	75	72	-	-	-	-	-	-
2003-04	69	71	70	78	81	79	57	62	59	71	76	73	-	-	-	-	-	-
2004-05	65	67	66	78	81	79	55	60	57	69	74	71	-	-	-	-	-	-
2005-06	63	63	63	78	79	79	54	57	55	68	74	71	49	49	49	60	64	62
2006-07	63	62	63	77	79	78	52	55	53	67	72	69	46	45	46	59	62	60
2007-08	63	62	63	76	78	77	54	51	53	68	69	68	44	41	43	57	57	57
2008-09(P)	58	59	58	76	77	76	51	44	48	67	67	67	45	39	42	56	56	56
2009-10(P)	55	61	58	75	76	75	51	52	51	59	60	59	41	44	42	53	52	53
2010-11(P)	55	55	55	71	71	71	47	39	43	57	54	56	40	41	41	50	48	49

Source: Educational Statistics at a Glance-2012, MHRD. Note: P-Provisional

⁷⁸ Dropout Rate is the percentage of students who drop out from a given grade or cycle or level of education in a given school year (as defined in Educational Statistics at a Glance, Government of India, Ministry of Human Resource Development, Bureau of Planning, Monitoring and Statistics, New Delhi, 2013).

Table 6.11: Percentage of Out-of-school Children (6-14 years)

Year	Percentage of out-of-school children to total corresponding population				
	Total	Girls	SC	ST	Muslim
2005	6.9	7.9	8.1	9.5	10.0
2009	4.2	4.6	5.9	5.2	7.7

Source: National Monitoring Committee for Education of Scheduled Castes, Scheduled Tribes and Persons with Disabilities (Background Paper), MHRD, June 2012.

Figure 6.1: Proportional Change in GER and Dropout Rate of STs (Class I-VIII)

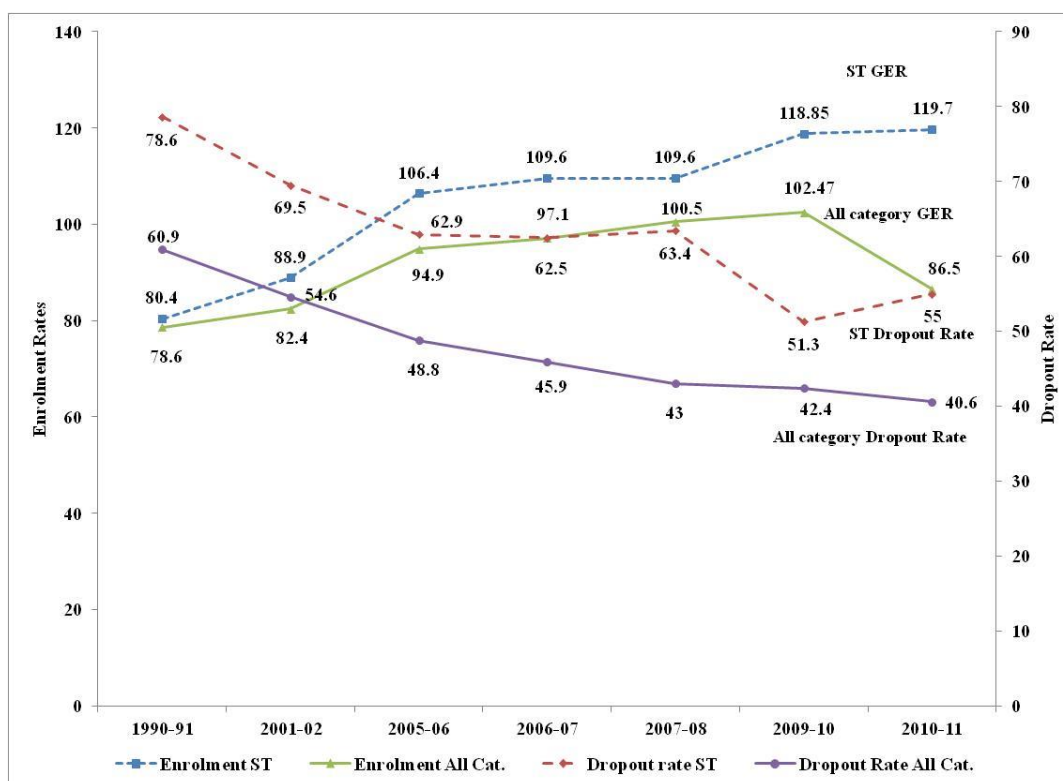
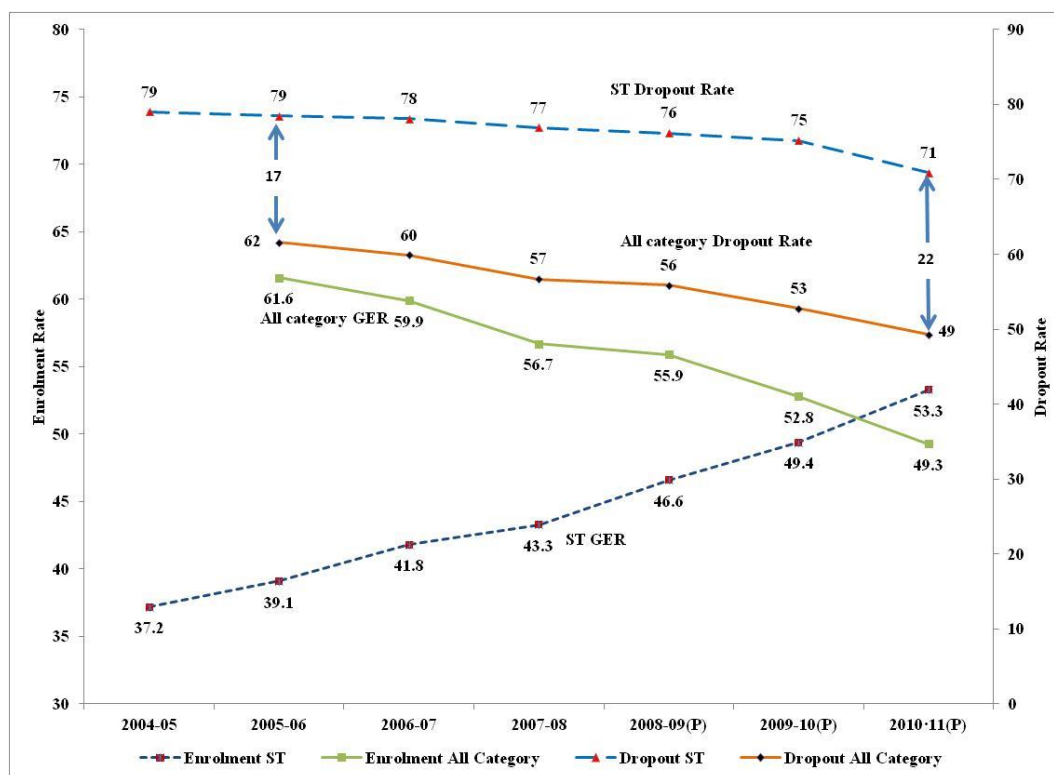


Figure 6.2: Proportional Change in GER and Dropout Rate of STs (Class I-X)



Source: Educational Statistics at a Glance-2012, MHRD.

6.6 A Long Way to Go

Behind the silver lining of positive development, however, there are several grey areas. There are still a large number of schools which do not have minimum facilities. While there has been a decline in the percentage of out-of-school children across gender and social categories, tribal children still need greater and focused attention in this regard. Even where there is reasonable infrastructure and student enrolment, regular school attendance is a problem in the tribal areas. Some of the most educationally backward states in central India, for instance, Madhya Pradesh and Jharkhand, have the lowest student attendance rate (below 60 per cent).⁷⁹ To make matters worse, the old problem of teacher absenteeism, that the tribal areas are known for, persists.⁸⁰

There is long way to go with respect to infrastructural facilities. But, the Government in the name of tribal education, has somewhat been lopsidedly preoccupied with this subject. Improvement of the quality of education has not been cared for sufficiently. The neglect has resulted in poor level of student learning. This is commonly known from various studies by government agencies like the National Council of Educational Research and Training, private

⁷⁹ *Ibid.* p.48.

⁸⁰ Jha. J. and D. Jhingan, *Elementary Education for the Poorest and Other Deprived Groups: The Real Challenge of Universalization*, New Delhi: Centre for Policy Research, 2002.

surveys such as Annual Status of Education Report (ASER) of the Pratham Education Foundation and even by 11th EFA (Education For All) Global Monitoring Report of UNESCO. The most disturbing trend is steadiness of decline of the tribal children's learning level. The ASER, covering 550 rural districts, reveals that 93 per cent of students of Class V were unable to read Class II textbook contents in 2013 whereas, in 2005, it was 97 percent.⁸¹ The situation, at the elementary school level, has given rise to the 'model of minimum levels of learning', which is reduced to mere literacy.⁸²

The low level of learning at the early schooling stage accumulates and is covered up by the no-detention policy up to Class VIII level. It is ultimately expressed at the secondary level, where students from the tribal groups constitute the highest proportion of failed candidates or low scorers in the Class X board examinations. The high drop-out rate that one observes at the Class X level is actually, the high failure rate of the tribal children. This can be deduced from the Figures 6.1 and 6.2 above.

One of the factors behind this is the poor quality and inadequate number of teachers. There are a large number of schools that do not comply with RTE norms on parent-teacher ratio. Available data suggests that in 2009-10 only 46 per cent of primary and 34 per cent upper primary by National Council of Teacher Education, as is required under Right to Education schools fulfilled these norms. Moreover, teachers are without the professional qualifications as prescribed by the Right of Children to Free and Compulsory Education Act, 2009. There are about 8.1 lakh untrained teachers who are mostly in the tribal regions.⁸³

6.7 Education as a Site of Discrimination

Traditionally, education has been an area of discrimination against dalits and tribals.⁸⁴ Of late, in the changing situation, there seems to be a rise in this trend. As noted earlier, against the prevailing load of heavy curriculum and tyranny of examination, child-friendly approach enunciated by the National Policy was supposed to provide relief to children from disadvantaged groups. In case of the tribal children, however, teaching-learning is not always friendly. The classrooms are not free from the traditional social prejudice against the tribal children. In a recent report, Human Rights Watch records that the Ghasiya tribal children of Sonbhadra District in Uttar Pradesh were made to sit in a single grade irrespective of their ages, that also separately from the other students.⁸⁵ The Principal of the concerned school stated that the tribal children were a 'big problem' in the school. Such prejudice not only precludes the potential for tribal children learning in the classroom, it also perpetuates discrimination and exclusion. The problem has become endemic. Beyond the concern of

⁸¹ ASER, 2005 and 2013 quoted in *The Hindu*, New Delhi, 16 February 2014, *Sunday Magazine*.

⁸² *National Curriculum Framework, 2005, Position Paper, National Focus Group on Problems of Scheduled Castes and Scheduled Tribes Children*, NCERT, New Delhi, 2007, p.21.

⁸³ *Planning Commission, Government of India, Twelfth Five Year Plan, 2012-17, Volume III*, p. 48.

⁸⁴ *According to the Indian Statutory Commission, 1930, during British rule, source of water and educational campuses were two leading sites of discrimination against the depressed classes.*

⁸⁵ *Human Rights Watch, 'They Say We're Dirty': Denying an Education to India's Marginalized*, April 2014, p.3.

human rights activists, this has become an important sub-field with academic studies of exclusion and discrimination in India.⁸⁶

While discussing discrimination at the level of school education, one cannot refrain from pointing out the phenomenon in the area of higher education. The reaching of an insignificant number of tribal students in the portals of higher education is grudgingly accepted by students from upper castes. To stop the tribals' entry, various ways are adopted. In this respect, the case of M.Phil admission at the premier institution, Jawaharlal Nehru University, was in the news recently.⁸⁷ In the year 2011-2012, several departments meticulously planned to grant very low marks in viva-voce to tribal students who were among the best scorers in the confidentially corrected national level written tests. Once the tribal students manage to take admission, they are humiliated in various ways so that they are demoralized. Thus, in June 2011, certain 'etiquettes' for the tribal and other weaker section students appeared at the Indian Institute of Technology, New Delhi. Derogatory names given to tribal students from the Northeast is well-known. The Government takes several measures to protect the tribal students. But, in most of the cases, the measures are poorly implemented. Instead of according full sympathy to the tribal students who come from a different cultural background, they are taken as quaint and unwanted. Anti-tribal psyche is stronger in higher technical institutes. This is revealed by reports of various Government enquiry committees. For instance, the Thorat Committee Report on the All India Institute of Medical Sciences (AIIMS), New Delhi, (2006) and, a few years later, the Mungekar Committee on Vardhman Mahavir Medical College, New Delhi (2012).⁸⁸

6.8 Facts behind Free Education

As the poorest sections of Indian society, tribals are largely not capable of paying for education. Yet, in the event of deficient 'free' education, they are inclined to pay for education outside the government system. Tables 6.12 and 6.13 show the composition of private expenditure on education in 2009-10. The expenditure on tuition and other fees (school, colleges etc.), private tutors and coaching centres constitute the largest share of educational expenditure. The tribals have highest expenditure on these elements, even in rural areas. Calculations based on NSSO data clearly indicate that a large proportion of tribals opted for private education between 2004-05 and 2007-08 (Table 6.14). The tribals' opting for private education is not necessarily a push factor of the rise of income. It reflects actually their aspiration for better life through the route of education. Exploiting the situation, 'public' (private) schools have mushroomed in the rural areas, even in parts of interior tribal areas. The private ventures are primarily guided by commercial interests. Unsuspecting, tribals do

⁸⁶ See, for instance, Nambissan, Geetha B. 'Exclusion and Discrimination in Schools: Experience of Dalit Children', *Children, Social Exclusion and Development, Working Paper Series, UNICEF and Indian Institute of Dalit Studies, New Delhi, 2009.*

⁸⁷ Ajoy Ashirwad Mahaprashasta, 'Injustice undone', *Frontline, Volume 28, Issue 19, September 10-23, 2011. Available at <http://www.hindu.com/thehindu/thscrip/print.pl?file=20110923281903700.htm&date=f12819/&prd=fline&>*

⁸⁸ *Report of the Committee to Enquire into Allegation of Differential Treatment of SC/ST Students in All India Institute of Medical Sciences, New Delhi (Chairman: Sukhdeo Thorat, 2006). Available at <http://www.nlhmb.in/Reports%20AIIMS.pdf>*

not even know that most of them are unrecognized and of inferior quality. They are, thus, left cheated and disenchanted.⁸⁹

The crunch of State funding on people's education has been longstanding. The special provision of Tribal Sub-Plan funding for the tribals has been of help. We have noted earlier that elementary education, which is supposed to initiate the masses into the education system, has traditionally received a raw deal by the country's planners. Ironically, since the beginning of the new initiatives in this area under the National Policy, 1986, the Government has developed dependency on international and private capital. Thus, many large programmes like the Centre's District Primary Education Programme and Rajasthan's Lok Jumbish and Madhya Pradesh's Education Guarantee Scheme are funded by international agencies such as World Bank, UNICEF and European Union. These programmes, run through non-governmental agencies, do not always deliver quality education. If not monitored properly, sometimes they may invite risk to national interest since they influence the direction, contents and priorities set by the nation.

⁸⁹ *National Curriculum Framework, 2005, Position Paper, National Focus Group on Problems of Scheduled Castes and Scheduled Tribes Children, NCERT, New Delhi, 2007, p. 16.*

Table 6.12: Average Expenditure on Education in the last 365 days

NSS Round	Year	ST			SC			GEN			Gap between ST & SC from Total	Gap between ST & GEN from Total
		Rural	Urban	Total	Rural	Urban	Total	Rural	Urban	Total		
55 th round	1999-2000	98	224	161	74	156	115	145	297	221	-46	60
66 th round	2009-10	320	760	453	311	727	467	599	1348	1008	14	555

Source: National Sample Survey of 55th Round and 66th Round

Table 6.13: Item-wise Average Private Expenditure on Education, 2009-10

Education Items/ Categories	ST			SC			GEN		
	Rural	Urban	Total	Rural	Urban	Total	Rural	Urban	Total
Books, journals: first hand	184	352	235	156	253	192	213	372	298
Books, journals, etc.: second hand	73	165	99	61	95	75	81	162	121
Newspapers, Periodicals	165	259	210	198	263	236	257	357	327
Library charges	33	74	52	52	65	59	54	110	85
Stationery, photocopying Charges	98	159	114	97	135	110	126	192	160
Tuition and other fees (School, college, etc.)	455	1332	714	420	1206	709	1039	2589	1867
Private tutor/coaching centre	534	1031	696	497	1045	741	566	1502	1096
Educational CD	39	300	148	402	183	260	148	222	206
Other educational Expenses	108	266	151	59	121	80	135	297	218
Total Expenditure on Education	649	1654	938	619	1536	950	1300	2986	2211

Source: National Sample Survey of 66th Round

Table 6.14: Type of Institution Attended by Social Groups

Social Groups /Year	Government		Local Bodies		Private Aided		Private Unaided		Not Known	
	2004-05	2007-08	2004-05	2007-08	2004-05	2007-08	2004-05	2007-08	2004-05	2007-08
Total										
ST	74.26	74.46	3.14	3.31	12.90	10.90	9.25	11.00	0.45	0.33
SC	72.44	73.52	5.22	4.97	9.92	8.81	11.98	12.30	0.43	0.40
OBC	60.94	63.06	4.99	4.89	13.19	10.96	20.40	20.53	0.48	0.56
Others	55.16	52.63	4.85	3.88	16.27	15.68	23.14	26.91	0.59	0.90
Total	62.62	63.21	4.73	4.38	13.67	12.03	18.47	19.77	0.51	0.61
Rural										
ST	77.40	80.20	3.35	3.61	11.48	8.34	7.30	7.52	0.47	0.33
SC	79.60	79.50	4.60	5.40	7.12	6.11	8.30	8.73	0.38	0.26
OBC	67.39	71.02	5.04	5.46	10.20	8.31	16.95	14.83	0.42	0.38
Others	65.22	67.10	5.52	4.54	11.90	10.77	16.94	17.08	0.42	0.51
Total	70.36	73.21	4.84	4.93	10.40	8.48	13.98	13.00	0.42	0.38
Urban										
ST	64.89	55.71	2.50	2.34	17.14	19.25	15.06	22.36	0.41	0.33
SC	56.66	58.84	6.59	3.92	16.09	15.43	20.10	21.05	0.55	0.75
OBC	48.27	46.52	4.90	3.70	19.06	16.45	27.17	32.38	0.60	0.94
Others	42.03	38.40	3.98	3.23	21.96	20.51	31.21	36.57	0.81	1.29
Total	48.48	45.55	4.52	3.41	19.66	18.30	26.68	31.73	0.66	1.01

Source: Authors' Calculation from NSS 61 and 64 Round.

6.9 The Right of Children to Free and Compulsory Education Act, 2009

Faced with the unending problem of enrolment, retention and quality education to the masses and prodded by the Supreme Court in the Unnikrishnan case, the Government brought the Right of Children to Free and Compulsory Education Act, 2009 in order to strengthen its hands.⁹⁰ The Act mandates free and compulsory education of all children of 6-14 years until they complete elementary education in a neighbourhood school. The Act further provides for admission of every child who is above six years of age and has not been admitted to any school; it also provides for re-admission of every child, who discontinued elementary education for some reason, to a school in a class appropriate to his/her age, with the proviso of special training or additional instruction so that he/she is brought at par with others.

Though a right act at a right time, its implementation generally and particularly in respect to the tribals is a daunting task for the Government. The neighbourhood schooling is bound to be most contentious since public schools are reluctant to admit students from the weaker sections. As for re-admission of the out-of-school children,

⁹⁰ *J.P. Unnikrishnan v. State of Andhra Pradesh (1993) 1 SCR 594 at p.693.*

the implementation is no less problematic. A school principal in a backward district states: 'If a child comes to us for enrolment in school when he is 10 years old and hasn't learned the basics, then we put the child's age as 6 years and enrol him in Class I.'⁹¹ His plea is that putting him in the class of his appropriate age would need special attention which would be at the cost of teaching other students.

6.10 Teachers and Way of Teaching Tribal Children

Along with the shortage of teachers, the quality of teachers and their approach and method of teaching has been a serious issue that engaged the Dhebar Commission half a century back. Recently, the subject has been the concern of the National Curriculum Framework, 2005. Both have underscored the need of familiarity for teachers teaching tribal children with tribal culture and language so that learning is hassle-free. For intimate orientation and training of teachers, the Dhebar Commission even insisted on teacher training centres being located in the tribal areas, and wanted the teachers so trained to serve the tribal area for at least twenty years. The crux of this idea was not recognized in the succeeding years. The Program of Action, 1992 actually came with the idea of raising teachers with 'crash course' to meet the shortage of teachers in the tribal areas.

Equally important, is the need of production of teaching materials in tribal languages in the interest of a large number of early tribal learners. Within the National Policy, 1986, the National Curriculum Framework is clear that the problems of inequality need to be addressed not only through policies and schemes, but 'also through design and selection of learning tasks and pedagogic practices.'⁹² But indication is that there is not much effort in developing curricula and devising instructional materials, keeping in mind socio-cultural milieu of the tribals. The National Sample Survey data reveals that the tribal languages listed in the Eighth Schedule, viz., Bodo, Dogri and Santhali, are educationally used merely by 0.11 per cent, 0.02 per cent and 0.01 per cent of the tribals respectively.⁹³

The viability of developing instructional materials in the tribal languages and their use is proved by stray experiments in the Northeast and elsewhere. The role of the nodal institutions like the NCERT and similar State institutions leaves much to be desired. Since 1969, the Central Institute of Indian Languages has been doing useful work on tribal languages, but translation of their efforts, in the field of teaching materials, in coordination with sister organizations of the Central Ministry of Human Resource Development, is not discernible.

⁹¹ *Human Rights Watch, 'They Say We're Dirty', p. 6.*

⁹² *NCERT, National Curriculum Framework, 2005, New Delhi: 2005, p.5.*

⁹³ *National Sample Survey, 2007-08 (64th Round).*

6.11 Residential Schools and the Tribals

As a way of providing quality education to the tribals in an efficient manner, the Government has been, from the 1950s to the present policy, opening residential schools and hostels for them at central places. Ashram School, Eklavya Model School and Kasturba Gandhi Balika Vidyalaya are leading schemes under this approach. What has come as a standard approach, it is generally found that there is ‘cultural discontinuity’ between school environment and social life of the children back home. The problem was first pointed out by the Scheduled Caste and Scheduled Tribe Commission in 1987 and later, by the framers of the National Curriculum Framework, 2005.⁹⁴ Citing authoritative studies, the latter document claims that, in the event of school environment and functioning being in tune with the tribal cultural life, performance of the student is better.

While such coordination is not forthcoming, the tribal residential schools and hostels remain commonplace institutions. They are often in the news for corruption, bad maintenance of facilities and sexual exploitation of resident girls. A review of the ‘ashramshalas’ in Kanker district of Chhattisgarh by the National Commission for Protection of Child Rights, in the wake of the case of rape and sexual abuse of girls in the Jhaliyamari village of Narharpur Block, reported:

43 girls, aged 6 to 13, who attended primary school and stayed in the ashram shala in the village, were repeatedly exposed to sexual abuse. 125 of these girls were reported to have been raped almost two years by the male teacher and watchman ... While the hostel had a female superintendent who was mandatorily expected to stay at night, she would go home ... Moreover, the ashram shala was found to be in despicable condition, with merely three shed-like small rooms – none of which had bolts, no provision of water and electricity, and no toilets.⁹⁵

In the context of Maoist militancy, the concept has vulgarized. Tribal children from militancy-affected interior villages are herded like animals. Among horrific tales narrated to the High Level Committee was the death of children for lack of basic health facilities.

6.12 Educational Domain and Knowledge on Tribes

Ever since Nehru recognized tribal culture as an autonomous constituent of Indian culture, there has been effort, under the national democratic ethos, to know about the tribals and their problems from an outlook different from the old nationalist viewpoint. A number of Tribal Research Institutes and museums on tribes in various states came into being. The National Policy, 1986 wanted a more proactive role of the education system in this direction. It suggested: ‘The curriculum at all stages will be

⁹⁴ Government of India, *Report of the Commissioner of Scheduled Castes and Scheduled Tribes, 1986-87 (Twenty-eighth Report)*, p. 296; *National Curriculum Framework, 2005, Position Paper, National Focus Group on Problems of Scheduled Castes and Scheduled Tribes Children, NCERT, New Delhi, 2007*, pp. 24-25.

⁹⁵ *National Commission for Protection of Child Rights: Visit to State of Chhattisgarh, District Kanker to review the status and functioning of ashram shalas, 20th to 23rd March 2013*, p.5.

designed to create an awareness of the rich cultural identity of the tribal people as also their enormous creative talent.’⁹⁶ Such effort would be in the spirit of the national system of education that was capable of accommodating country’s cultural diversity while ensuring certain common national values.

Despite this policy enunciation, tribes as a subject figure insignificantly in the school curriculum. There is dearth of textbook materials and of advanced knowledge on the tribes. This makes tribes the most misunderstood social group of the country. Wherever the subject finds some space, the tribals are depicted as quaint and exotic people. Rich cultures, history and dynamics of the tribal society are not touched upon. There is, thus, the need to establish study centres that focus on tribal studies. The old State institutes that are reduced to an extension of respective Government Tribal Welfare Departments need to be rediscovered. Recently, the Government of India opened the Indira Gandhi National Tribal University. A good move, it needs to be well directed. There are areas of education, which need attention like tribal folklore, language and literature, sports and continuation of performing arts and traditions of tribal culture.

University Grants Commission should provide special scholarships and fellowships for higher studies and research related to tribal culture, literature, etc. At least, one Tribal Chair needs to be established by the UGC in universities in every State comprising Fifth Schedule Areas. The scope of education needs to be expanded for the purpose of scholarships and should include tribal painting, art, craft, song, music and dance, etc. While the Ministry of Tribal Affairs is now supporting scholarships for students belonging to the tribals, the UGC and the MoTA should support scholarships for tribal studies for non-tribal students also.

6.13 Contemporary Concerns in Tribal Education

Educating the tribal children has been a challenge for the Government for various socio-cultural, economic, geographical and administrative reasons. For example, the literacy rate of tribal people has been lower than the entire population. During the period, 1961 to 2011, the gap in literacy rate between Scheduled Tribes and the whole population increased from 19.8 percent in 1961 to 27.2 percent in 1981 and has declined to 14.6 percent in 2011. The gap can be said to be persisting in the trend analysis (Table 6.1). If the Northeast areas are excluded, the gap in the literacy rate between tribal and overall population is fairly high.

However, contemporary concerns on tribal education are more complex than mere literacy. Absenteeism of teachers in schools in remote areas has increased. Left Wing Extremism and inter-ethnic violence has resulted in further absenteeism and there is a

⁹⁶ Ministry of Human Resource Development, Government of India, *National Policy on Education, 1986*, p.10.

need to adopt different strategies for addressing these issues. Security of children, particularly girls, has become a concern in many locations. Aspiration for higher education has led the government to institute scholarships for tribal students, but the uptake has been low due to weak education at primary and secondary levels that create disadvantages for higher education. This is particularly so, in the case of Science, Medicine, and Engineering streams.

6.13.1 Incidence of High Dropout Rates

Dropout rates among the tribal students, particularly at the secondary and senior secondary stages, are very high. With dropout rates⁹⁷ of 73 per cent at Class X, 84 per cent at Class XI and 86 per cent at Class XII, higher education also suffers. No-detention policy, before and after the RTE Act, does not allow students from the tribal community to acquire basic skills in Three Rs (Reading, Writing and Arithmetic). Lack of such basic skills in language and arithmetic creates huge barriers for their further studies. This absence of background education is also a cause of dropouts. Therefore, the policy of non-detention needs a review. The policy of work education at the primary and vocational education at the secondary and senior secondary level needs further integration and strengthening.

Vacations in the tribal schools should be realigned with the local festivals. Long duration summer vacation happens to be critical period for mass dropouts not only in tribal areas, but also in all rural areas. This period should be gainfully utilized for conducting remedial classes, special coaching and skill development. Institutions of ITDAs/ITDPs and micro projects support to the tribal schools should be strengthened to prevent dropouts.

6.13.2 No-detention Policy

The committee was unanimous that while the no-detention policy was just and fair on paper, in practice, it has had deleterious effect on education of children. Children who are unable to acquire basic concepts in language and numerical ability, will be at a disadvantage at higher levels. We recommend that this policy should be reviewed and certainly should be taken out of RTE Act, 2009. When the student, teachers, or the parents of the student request for retention of a child to enable him/her to acquire skills to move to the next class, he/she should be retained.

6.13.3 Shortage of ‘Quality’ Teachers

In the 1950s and the ‘60s, Ashram Schools at primary level were introduced in tribal habitations. The number of teachers per school was below the present RTE norms, but many of the students remained in school, and it is reflected in the increase in literacy

⁹⁷ Source: *Statistics of School Education, 2010-11*.

rate of the Scheduled Tribes in following decades. Over time, the absenteeism of teachers increased and small schools became ineffective.

Owing to paucity of trained teachers, learning achievement levels of tribal students remain low. A realistic projection should be made for the requirement of teachers for TSP areas for the next ten years. Additional capacity should be created in existing teacher training institutions. New teacher training institutions should be opened in the TSP areas to meet the full requirement of qualified and trained teachers. The curriculum for the training should be drawn up very carefully taking into account the socio-cultural milieu, tribal ethos, language etc. Further, it should also meet the present day needs like computer science, Information and Communication Technology (ICT) in education, etc.

The dearth of teachers fulfilling the eligibility criteria set out under the RTE Act is an impediment to achieving the right to education in tribal areas. For addressing the current crisis of absence of teachers in tribal areas, special efforts need to be made to produce more teachers who have qualified the Teachers Ability Test. This must be done on an emergency basis. In the interregnum, teachers appointed in educational institutions must be given a term within which they qualify the Teachers Eligibility Test, and facilities be provided to assist them in taking this test, including training courses and access to materials.

6.13.4 Language Barriers for the Tribal Students

Most of the tribal communities in India have their own mother tongue. But in most of the States, official/regional languages are used for classroom teaching and these are not understood by the tribal children at primary level of schooling. In the Vision 2020 document, there was an acknowledgement that Multi-Lingual Education (MLE) was necessary, in view of the low tribal literacy, high rates of dropouts and low learning achievements of the tribal children. The Model of Primers in the Tribal language were first developed in Odisha in 1996. Subsequently, several pilot projects involving material production and training, aimed at promoting multilingualism in the classrooms were launched in Odisha, Andhra Pradesh and Assam.

The design of the Primer of Odisha has some aspects which should be noted for replication. One side of the text was in local script but used tribal language. The other side of the script was in local language and script. The student learnt the script because he/she understood the content. The teacher understood the tribal language because he/she could read in a known script. The contents were about local trees and fruits, local folk tales and festivals. Some of the text was also about functional literacy such as clean drinking water and common institutions. However, this initiative was not carried forward with change of personnel at the helm of Education Departments.

A desirable outcome of the Primer was that it transformed the tribal languages into the written form, while preserving the words and syntax. Information on this and similar isolated efforts elsewhere need to be disseminated in other tribal areas. Establishment of Regional Resource Centres in tribal concentration States for providing training, academic and other technical support for development of pedagogic tools and education materials catering to multilingual situation should be reinforced and augmented.

6.13.5 Involvement of Panchayats and Community in Education

A study⁹⁸ has documented the criticality of involvement of parents and community in the education of tribal girl children. The study has also documented the unique perception of tribal parents on modern education. For success of the educational interventions, involvement of community through the Panchayati Raj Institutions needs to be institutionalized. Information on various schemes, benefits and beneficiaries should be provided to the Gram Sabhas and Gram Panchayats, which would create transparency. This will help create demand for scholarships and access to higher education, because of wide dissemination of information. Involvement of community members in school activities would reduce the social distance between the school and the community and would help in checking dropouts. Social audit by Gram Sabha will, for example, improve attendance of teachers, quality of food served in schools and delay in supply of text books.

6.13.6 Education for Displaced and Dispersed Tribals

Special arrangements for schooling facilities for the children of displaced tribal population residing in urban centres needs to be institutionalized through creation of special tribal agencies in the urban areas. They should be established under the Department of Tribal Affairs of the State Government, utilizing the TSP/SSA grants. Similarly, for the dispersed tribal population, special interventions, such as transport facilities for the children, should be provided to cater to their educational needs. Many of these people have been forcibly evicted by land acquisition and, therefore, the project for which they were displaced should have funded for their rehabilitation, including educational facilities at the resettlement sites.

6.13.7 Education of Nomadic Tribes

Nomadic tribes are constantly mobile depending on the climate, occupations and livelihood opportunities. For instance, the Bakkarwals and Gujjars of Jammu and Kashmir, move to higher altitudes in summers and return to lower altitudes in winters.

⁹⁸ *Education of the Tribal Girl Child: Problems and Proposals* by A B Ota and R.P. Mohanty, Scheduled Castes and Scheduled Tribes Research and Training Institute, Odisha

While residential schools have been set up for children in lower altitudes, the younger children (Class I to V) travel along with their parents and do not stay in these schools. Therefore, these children miss out on primary level schooling. Hence, this issue must be addressed through a special mass contact program for creating awareness about the need for schooling and long term benefits.

The region also borders the Line of Control and hence they are exposed to violence. The Department of Tribal Affairs also has to ensure that there are female wardens for girl students in residential schools and the space is not violated by armed men. Similar action is required for other Nomadic Tribes. The basic principles are: (a) The residential schools should be where the weather is least harsh, (b) there should be special security for the children, including girl children for whom there should be women wardens, (c) the parents of students should be brought to these institutions so that they are informed about the education, and quality of life, of their children, (d) there should be proactive efforts by Tribal Affairs officials of the State to approach every family to help them make an informed choice to send their children to the schools, (e) the holidays for these schools should be fixed in such a way that the children can meet their family, when the family returns to the place where they celebrate festivals, weddings, etc.

6.13.8 Single Window Scholarship Portal

There are multiple scholarship schemes of MoTA and MoHRD, including UGC which have a number of beneficiaries. The immediate goal is to create a common interface for the tribal students to provide information on different scholarship schemes, available to them. One of the critical elements for success of such a Single Window Scholarship Portal is to provide information about different scholarship schemes in a simple and relevant manner. The portal should enable students to request for scholarships directly.

6.14 Recommendations

There are multiple scholarship schemes of MoTA and MoHRD, including UGC which have a number of beneficiaries. The immediate goal is to create a common interface for the tribal students to provide information on different scholarship schemes, available to them. One of the critical elements for success of such a Single Window Scholarship Portal is to provide information about different scholarship schemes in a simple and relevant manner. The portal should enable students to request for scholarships directly.

1. The purpose of education anywhere, including in tribal areas, should be to provide children with an understanding of the environment and society in which they live and to endow them with the capability to earn a livelihood in

the local society and, for those who have the desire and ability, in the national job market.

2. There is a marked gender gap with respect to education in tribal society. This is reflected in the disparity in literacy levels, drop-out rates and enrolment in higher education. Hence, there is a need for greater gender focus and social mobilization to encourage education of girls. The State must develop certain mechanisms to this effect.
3. Since the educational scenario in tribal areas is marked by poor infrastructure, providing adequate infrastructure, such as classrooms, teachers and teaching aids as well as basic facilities like electricity, water, boundary walls and toilets is absolutely essential for the proper functioning of these schools and from the perspective of security and safety of children.
4. In view of the deteriorating condition of elementary education in tribal areas, where Sarva Siksha Abhiyan has hardly been of help, recourse should be taken to the Right of Children to Free and Compulsory Education Act, 2009 which provides for compulsory enrolment of all children between the age group 6 to 14, re-enrolment of those who have dropped out with the facility of special coaching for admission in a class appropriate to his or her age, and admission of a child in a neighbouring school of his or her choice. The Act should be stringently implemented.
5. Keeping in view the difficulties of adjusting to a new cultural environment, teachers for schools in the tribal regions should be recruited locally. Along with the teaching staff, the administrative staff dealing with tribal education should have regular orientation courses to appreciate tribal culture and way of life. To facilitate such training, the centers of training should be located in the tribal areas. There should be a separate cadre of teaching and administrative staff, who will serve among the tribal schools over the long run.
6. New teacher training institutions should be opened in the TSP areas to meet the full requirement of qualified and trained teachers. The curriculum for the training should be drawn up very carefully, taking into account the socio-cultural milieu, tribal ethos, language etc.
7. The dearth of teachers fulfilling the eligibility criteria set out under the RTE Act is an impediment to achieving the right to education in tribal areas. For addressing the current crisis of absence of teachers in tribal areas, special efforts need to be made to produce more teachers who have qualified the Teachers Ability Test. This must be done on an emergency basis. In the interregnum, teachers appointed in educational institutions must be given a term within which they qualify the Teachers Eligibility Test, and facilities be provided to assist them in taking this test, including training, courses and access to materials.

8. The State Governments should develop a policy for multilingual education, so that early learning is conducted in the local language.
9. The experiment with the Model Primer developed in Odisha and other similar ventures may be worked upon in TSP areas and in tribal languages in other states as well.
10. Inclusion of local culture, folklore and history in the curriculum can help in building confidence of tribal children and enhance the relevance of education in their lives. Music and dance are a central part of tribal life. Therefore, storytelling, theatre, painting, music and dance performances should be promoted. Similarly, sports such as football, archery and other popular local sports are extremely beneficial and therapeutic for children, and should be promoted.
11. Recognizing that the tribal people have certain cultural 'genius', different aspects of 'indigenous knowledge' should be documented, researched and promoted. For developing better understanding of the tribal cultures and their promotion, there should be appropriate number of tribal cultural academies in regional centres. An important step in this direction is teaching tribal history and culture in schools for both tribal and non-tribal children.
12. To address the problem of low representation of the tribals in higher education, it is necessary to refurbish primary and secondary school education through special coaching.
13. Institutions of ITDAs/ITDPs and micro-projects support to the tribal schools should be strengthened for prevention of dropouts.
14. The policy of no-detention needs a review. When the student, teachers, or parents of the student request for retention of a child to enable him/her to acquire skills to move to the next class, he/she should be retained.
15. In light of the harsh terrain of tribal inhabitations, norms concerning distance and Pupil-Teacher Ratio, at all levels of school education, should be reviewed.
16. The policy of vocational education at the secondary and senior secondary level needs further integration and strengthening.
17. There is a marked absence of quality secondary and higher secondary schools in tribal areas. The Government needs to establish well-run residential schools such as Jawahar Navodaya Vidyalayas closer to the habitations (within a radius of ten kilometres) up to Class XII. These schools must provide comprehensive facilities for marginalized children including quality education, health care and academic support classes.

18. Residential schools should be set up specifically for Nomadic Tribes. The basic principles are: (a) The residential schools should be in places where the weather is least harsh, (b) there should be special security for the children, including girl children for whom there should be women wardens, (c) the parents of students should be brought to these institutions so that they are informed about the education, and quality of life, of their children, (d) there should be proactive efforts by Tribal Affairs officials of the State to approach every family to help them make an informed choice to send their children to the schools, (e) the holidays for these schools should be fixed in such a way that the children can meet their family, when the family returns to the place where they celebrate festivals, weddings, etc.
19. In residential schools, which are often in the news for incidents of sexual abuse of students, strong mechanisms should be put in place to protect the students from abuse, neglect, exploitation and violence.
20. There is a need to recognise the adverse impact of violence on children's education. No schools or areas in the immediate vicinity of schools should be occupied by security forces or the police, as has been the case in conflict zones in tribal areas. Demilitarisation of schools is vital in order to restore schools as a place of safety, security and scholarship for students.
21. Involvement of community in educational interventions through the Panchayati Raj Institutions needs to be institutionalized. Information on various schemes and benefits to beneficiaries should be provided to the Gram Sabhas and Gram Panchayats, which would create transparency and increase awareness about their entitlements.
22. There is a need for regular social audits to monitor the functioning of schools. To this end, a monitoring committee at the block level for primary and middle schools and district level for high and higher secondary schools should be set up.
23. Most of the educational 'missions' do not reach the tribal areas and where they do reach, they are too rare to have any significant impact. The State educational machinery is largely responsible for this situation. There should be proper accountability of the State educational administration to end the longstanding stagnation in education in tribal areas.
24. The scope of education needs to be expanded for the purpose of scholarships and should include tribal painting, art, craft, song, music and dance, etc. While the Ministry of Tribal Affairs is now supporting scholarships for students belonging to Scheduled Tribes, the UGC and the MoTA should support scholarships for tribal studies for non-tribal students also. A single window

scholarship portal targeting the Scheduled Tribe students should be established to provide information on different scholarship schemes.

25. Regional Resource Centres in States with significant tribal populations should be established to provide training, academic and other technical support for development of pedagogic tools and education materials catering to multilingual situation.
26. It is suggested that owing to poor condition of the State Tribal Research Institutes, there is the need to improve the same in terms of infrastructure, quality of staff, research output and direction for policy. It is also recommended that a Central Tribal Research Institute, as has been planned by the Central Government, be launched.
27. It is recommended that a Tribal Chair be established by the UGC in Universities in every State comprising Fifth Schedule Areas.

7. Health

7.1 Introduction

This chapter presents the status of health, health care and their selected determinants among the Scheduled Tribes in comparison to the Non-Scheduled Tribe population in India, using secondary data. It also makes recommendations to improve the situation, including suggesting a set of specific goals to be achieved.

This chapter covers the following aspects:

1. Population size, growth, sex ratio and few other characteristics
2. Mortality
3. Fertility
4. Disease patterns
5. Nutrition
6. Hypertension
7. Addiction – tobacco and alcohol
8. Determinants of health: sources of drinking water, sanitation facilities and fuel
9. Public health infrastructure, human resources and health care seeking behavior
10. Maternal and Child Health Care Program Coverage
11. Conclusions
12. Recommendations
13. Goals to be achieved

7.2 Methods

In this chapter, we have primarily based our analysis from data obtained from two studies. Firstly, a study commissioned by the High Level Committee to a team of researchers who compiled and analyzed secondary data from available sources.⁹⁹ Secondly, data from the Technical Report of the National Nutrition Monitoring Bureau, titled ‘Diet and Nutritional Status of Tribal Population and Prevalence of Hypertension among Adults’, (2009) was examined closely.¹⁰⁰ The recommendations in this chapter are based on these data, inputs received from various stakeholders and the deliberations in the High Level Committee.

7.3 Sources of data

Different secondary data sources providing information on tribals in India are analyzed. These datasets include:

⁹⁹ Prof. F. Ram, Prof. Chander Shekhar and Prof. H. Lhungdim, *International Institute for Population Sciences, Mumbai.*

¹⁰⁰ We gratefully acknowledge these two reports.

- Census of India, 2001, 2011
- District Level Household Survey (DLHS), 2007-08
- National Sample Survey, 2007-08
- National Sample Survey, 2012-13
- National Family Health Survey (NFHS), 1992-93, 1998-99, 2005-06
- Rural Health Statistics, MoHFW, 2012
- National Nutrition Monitoring Bureau, Technical Report no. 25, 2009
- Other Micro-level Sample Surveys and Research Studies

At the outset, it must be expressed that disaggregated data on the health status of and health care to tribal population are not easily available. They are subsumed in the general population. The most recent data are often ten years old. This chapter is an early effort to weave these data together.

7.4 Population characteristics

This section presents the data on population size, growth, sex ratio and occupational structure of Scheduled Tribes population.

7.4.1 Population Growth

According to Census 2011, the Scheduled Tribes constitute 8.6 percent of the total population in India. In the last decade, i.e. between 2001 and 2011 Censuses, (Table 7.1) the tribal population has grown annually by 2.1 percent, but some states have experienced negative growth (eg. Nagaland and Andaman & Nicobar Islands). The annual growth has been highest in Sikkim (6.2 percent), Bihar (5.7 percent), and Himachal Pradesh (4.7 percent). Two states (Goa and Uttar Pradesh) have witnessed an exceptional growth, due to notification of additional caste/tribe groups under Scheduled Tribes.

Table 7.1: Annual exponential growth rate of Scheduled Tribe Population between Census of India, 2001 and 2011

States/UTs	2001	2011	Annual Growth Rate (%)
Jammu & Kashmir	11,05,979	14,93,299	3.00
Himachal Pradesh	2,44,587	3,92,126	4.72
Uttarakhand	2,56,129	2,91,903	1.31
Rajasthan	70,97,706	92,38,534	2.64
Uttar Pradesh	1,07,963	11,34,273	(23.5)
Bihar	7,58,351	13,36,573	5.67
Sikkim	1,11,405	2,06,360	6.16
Arunachal Pradesh	7,05,158	9,51,821	3.00
Nagaland	17,74,026	17,10,973	-0.36
Manipur	7,41,141	9,02,740	1.97
Mizoram	8,39,310	10,36,115	2.11
Tripura	9,93,426	11,66,813	1.61
Meghalaya	19,92,862	25,55,861	2.49
Assam	33,08,570	38,84,371	1.60
West Bengal	44,06,794	52,96,953	1.84
Jharkhand	70,87,068	86,45,042	1.99
Odisha	81,45,081	95,90,756	1.63
Chhattisgarh	66,16,596	78,22,902	1.67
Madhya Pradesh	1,22,33,474	1,53,16,784	2.25
Gujarat	74,81,160	89,17,174	1.76
Daman & Diu	13,997	15,363	0.93
Dadra & Nagar Haveli	1,37,225	1,78,564	2.63
Maharashtra	85,77,276	1,05,10,213	2.03
Andhra Pradesh	50,24,104	59,18,073	1.64
Karnataka	34,63,986	42,48,987	2.04
Goa	566	1,49,275	(55.8)
Lakshadweep	57,321	61,120	0.64
Kerala	3,64,189	4,84,839	2.86
Tamil Nadu	6,51,321	7,94,697	1.99
Andaman & Nicobar Islands	29,469	28,530	-0.32
India	8,43,26,240	10,42,81,034	2.12

Note: Average annual growth rate for whole (Scheduled Tribes and Non-Scheduled Tribes) population of India is 1.69 persons per 100 population. Figures in parentheses () are high due to notifying some additional castes/tribes as Scheduled Tribes.

7.4.2 Sex Ratio

The tribal population has shown favorable sex ratio as compared to other social groups in the country, with 990 females per 1000 males (Table 7.2). The sex ratio of tribal population reflects nearly equal share of males and females as seen in Himachal Pradesh and West Bengal (each with 999/1000 males) or favorable to females as in Goa (1046 females), followed by Kerala (1035 females), Arunachal Pradesh (1032 females), Odisha (1029 females), Chhattisgarh (1020 females) and Meghalaya (1013 females).

Table 7.2: Sex Ratio of population in India and States/UTs, 2011

States/UTs	Total		Rural		Urban	
	Scheduled Tribes	Non-Scheduled Tribes ¹⁰¹	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes
Jammu & Kashmir	924	884	927	904	872	839
Himachal Pradesh	999	970	1003	985	923	852
Uttarakhand	963	963	966	1001	938	883
Rajasthan	948	925	951	929	893	914
Uttar Pradesh	952	912	959	917	884	894
Bihar	958	917	960	920	934	895
Sikkim	960	856	942	849	1042	873
Arunachal Pradesh	1032	759	1022	780	1083	724
Nagaland	976	687	964	675	1014	694
Manipur	1002	987	995	961	1051	1022
Mizoram	1007	565	967	612	1047	546
Tripura	983	949	982	937	1017	971
Meghalaya	1013	851	996	896	1104	793
Assam	985	954	984	956	996	943
West Bengal	999	947	1000	949	991	943
Jharkhand	1003	930	1003	942	1007	900
Odisha	1029	964	1031	974	991	926
Chhattisgarh	1020	978	1021	990	999	951
Madhya Pradesh	984	917	986	918	956	916
Gujarat	981	909	984	939	952	878
Daman & Diu	977	599	982	849	972	536
Dadra & Nagar Haveli	1010	574	1011	383	1002	628
Maharashtra	977	925	984	946	942	902
Andhra Pradesh	993	993	996	996	968	988
Karnataka	990	972	990	978	993	962
Goa	1046	965	1026	999	1076	947
Lakshadweep	1003	286	994	381	1006	264
Kerala	1035	1085	1031	1079	1070	1091
Tamil Nadu	981	997	982	993	980	1000
Andaman & Nicobar Islands	937	871	931	871	1030	872
India	990	938	991	944	980	928

Note: The definition of Sex Ratio is taken as number of females per thousand males.

Source: Census of India, 2011.

¹⁰¹ The category 'Non-Scheduled Tribes' is same as the term 'Others' used in the other chapters.

7.4.3 Occupational Structure

Table 7.3 provides occupational structure of Scheduled Tribes and Non-Scheduled Tribes population presented in three broad categories. Primary sector includes agriculture and the allied activities, secondary sector includes manufacturing, and the tertiary sector includes the service sector. Table 7.3 clearly indicates large disparities in occupational structure between the two groups at the national as well as sub-national levels. Two-thirds of Scheduled Tribes are still working in primary sector, whereas this proportion is lower for Non-Scheduled Tribes population (43 percent). The involvement of Scheduled Tribes is low in tertiary sector (15 percent), as compared to Non-Scheduled Tribes population (29 percent).

Table 7.3: Occupational structure by types of sector among Scheduled Tribes and Non-Scheduled Tribes¹⁰²

States/UTs	Primary		Secondary		Tertiary	
	ST	Non-Scheduled Tribes	ST	Non-Scheduled Tribes	ST	Non-Scheduled Tribes
Jammu & Kashmir	35.1	28.0	36.2	41.0	28.7	31.0
Himachal Pradesh	31.3	42.2	30.8	30.2	38.0	27.7
Uttarakhand	41.5	34.9	15.9	24.6	42.6	40.5
Rajasthan	42.4	40.4	48.4	35.7	9.3	23.9
Uttar Pradesh	48.3	48.1	30.8	31.7	20.9	20.2
Bihar	65.9	63.1	31.4	18.6	2.7	18.3
Sikkim	60.7	50.3	5.2	13.8	34.1	36.0
Arunachal Pradesh	73.1	46.4	5.2	23.2	21.7	30.4
Nagaland	46.0	6.7	13.6	73.9	40.5	19.4
Manipur	55.9	38.5	17.1	28.7	27.1	32.8
Mizoram	43.6	68.3	16.2	10.2	40.2	21.5
Tripura	41.2	25.4	43.6	39.8	15.3	34.7
Meghalaya	48.6	25.5	8.4	14.1	43.0	60.4
Assam	65.1	53.0	17.7	23.7	17.2	23.3
West Bengal	82.0	41.2	7.7	30.9	10.3	27.9
Jharkhand	65.8	32.0	22.8	36.6	11.4	31.4
Odisha	65.7	46.7	22.1	28.4	12.2	24.8
Chhattisgarh	81.8	61.2	9.1	19.9	9.1	18.9
Madhya Pradesh	73.0	49.4	18.4	24.6	8.6	26.1
Gujarat	77.3	38.0	11.0	30.8	11.8	31.2
Daman & Diu	3.6	20.8	89.9	28.3	6.5	50.9
Dadra & Nagar Haveli	34.5	0.3	42.6	51.8	22.9	47.9
Maharashtra	63.0	37.7	17.9	19.3	19.0	42.9
Andhra Pradesh	75.6	43.8	11.4	25.5	13.0	30.7
Karnataka	68.5	45.6	12.8	16.9	18.7	37.5
Goa	7.9	5.4	24.9	14.5	67.2	80.2
Lakshadweep	19.9	14.5	24.3	43.8	55.8	41.7
Kerala	45.8	22.0	30.4	38.3	23.7	39.7
Tamil Nadu	63.4	33.6	17.1	32.8	19.5	33.6
Andaman & Nicobar Island	72.6	15.5	5.1	32.7	22.3	51.8
India	65.7	43.0	19.8	27.6	14.5	29.4

Source: NSSO 68th Round, 2012-13

¹⁰² Occupational structure is divided into primary, secondary and tertiary sectors. Primary sector refers to agriculture and allied operations while tertiary sector is the service sector.

Comment:

Population	Primary sector	Tertiary Sector	Ratio
Non-Scheduled Tribe	43%	29%	3 : 2
Scheduled Tribe	66%	15%	9 : 2

7.5 Mortality

In the absence of a good civil registration system in the country, it is very difficult to get latest reliable estimates of fertility and mortality. At the state level there is data on fertility and mortality, but there is no data generated for the Scheduled Tribes, which is important for targeted approach of planning and program implementation. This could also be one of the important factors for poor results from interventions in tribal areas and there is no way to monitor or evaluate the program. Even the Sample Registration System (SRS) does not provide estimates on Scheduled Tribe population at national level, which should have been mandatory. At least in the states, where the Scheduled Tribe population is more than 8-10 percent, the SRS should provide estimates.

Tables 7.4 to 7.6 provide the estimates of **Neonatal Mortality Rate (NMR), Infant Mortality Rate (IMR), and Under-five Mortality Rate (U5MR)**. These are all deaths in the respective age group per 1000 live births. It may be observed that, the estimated IMR for Scheduled Tribes was 88 per 1000 live births against all-India estimate of about 68 (including Scheduled Tribes) as per the Census of India, 2001. It means that compared to total population, the IMR for Scheduled Tribes population was around 30 percent higher. Further, U5MR was 129 for Scheduled Tribes against all-India estimates of around 96 (higher by almost 35 percent). There is huge variation across states as lowest U5MR is around 55 (many states around 60), whereas highest is more than 100 for several states.

Table 7.4: Infant mortality, Under-5 mortality and Life expectancy at birth for Scheduled Tribes population

States/UTs	Infant Mortality Rate	Under-five Mortality Rate	Life Expectancy (Years)
Jammu & Kashmir	93	139	59.7
Himachal Pradesh	69	98	65.1
Uttarakhand	74	106	64.0
Rajasthan	104	158	57.2
Uttar Pradesh	89	132	60.5
Bihar	81	117	62.5
Sikkim	69	97	65.3
Arunachal Pradesh	106	163	56.7
Nagaland	79	114	63.0
Manipur	72	103	64.5
Mizoram	61	85	67.1
Tripura	74	106	64.0
Meghalaya	86	126	61.3
Assam	64	90	66.3
West Bengal	78	113	63.0
Jharkhand	80	116	62.6
Odisha	98	149	58.5
Chhattisgarh	100	152	58.0
Madhya Pradesh	113	175	55.2
Gujarat	67	94	65.8
Daman & Diu	55	76	68.6
Dadra & Nagar Haveli	71	101	64.7
Maharashtra	70	99	65.1
Andhra Pradesh	71	100	64.8
Karnataka	69	97	65.2
Goa	NA	NA	NA
Lakshadweep	66	93	65.8
Kerala	64	89	66.4
Tamil Nadu	65	92	66.1
Andaman & Nicobar Islands	107	164	56.7
India Range	88 (55-113)	129 (76-175)	60.9 (55-68.6)
<i>Note: Estimates derived using Census, 2001 information on average children ever born and average children surviving</i>			

Source: Estimated from Census of India, 2001

Using a different dataset (NFHS-3, 2005-06), in Table 7.5, the estimates of **Infant Mortality Rate** in the Scheduled Tribes population, was found to be about 62 per 1000 live births and U5MR was 96 per 1000 live births. Compared to rest of the population, IMR was higher by 27 percent and U5MR rate was higher by 61 percent.

Table 7.5: Neonatal Mortality Rate, Infant Mortality Rate and Under-five Mortality Rate among Scheduled Tribes and Other by States/UTs

India/States	Neonatal Mortality Rate		Infant Mortality Rate		Under-five Mortality Rate	
	Schedule d Tribes	Other*	Schedule d Tribes	Other*	Schedule d Tribes	Other*
Jammu and Kashmir	11.2	34.0	34.3	44.7	*	9.0
Himachal Pradesh	*	24.0	*	28.2	*	33.1
Uttarakhand	*	27.3	*	43.8	*	52.2
Rajasthan	38.4	44.7	73.2	58.1	113.8	69.9
Uttar Pradesh	--	38.1	--	71.4	--	87.7
Bihar	--	51.6	--	82.2	--	108.9
Sikkim	14.3	37.3	28.9	48.7	35.9	59.9
Arunachal Pradesh	34.9	28.8	67.6	48.7	100.9	78.6
Nagaland	20.9	17.2	45.8	33.8	65.8	53.5
Manipur	34.2	18.2	51.2	25.8	71.4	37.9
Mizoram	--	--	--	--	--	--
Tripura	44.8	29.0	*	53.4	*	56.9
Meghalaya	23.9	*	49.3	*	74.0	*
Assam	43.9	48.1	59.0	74.0	83.2	100.9
West Bengal	*	42.9	*	56.6	*	70.4
Jharkhand	64.3	60.7	93.0	75.5	138.5	92.7
Odisha	54.0	31.7	78.7	53.1	136.3	64.2
Chhattisgarh	67.0	63.3	90.6	83.1	128.5	109.3
Madhya Pradesh	56.5	39.6	95.6	66.8	140.7	79.9
Gujarat	53.0	35.9	86.0	47.3	115.8	55.7
Maharashtra	32.5	34.3	51.4	40.5	69.8	47.4
Andhra Pradesh	63.4	46.3	94.1	54.0	112.0	63.2
Karnataka	36.0	29.0	45.8	43.5	77.9	60.4
Goa	*	15.0	*	22.2	*	29.2
Kerala	*	13.9	*	19.9	*	20.7
Tamil Nadu	*	*	*	*	*	*
India	39.9	34.5	62.1	48.9	95.7	59.2

Note: * -Others exclude Scheduled Castes and Other Backward Castes.

Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-3), 2005-06: India. Mumbai.

Comments:

- i) Independent population-based studies have shown that in the national surveys like SRS and NFHS, the NNMR is underestimated, thereby underestimating the IMR by nearly 30 to 35 percent. (Hidden Child Mortality in Maharashtra).¹⁰³

¹⁰³ Bang Abhay, Reddy Hanimi, Deshmukh Mahesh: Hidden Child Mortality in Maharashtra (2006) Ministry of Health and Family Welfare, Government of India.

- ii) The U5MR is better recorded/reported. It represents the magnitude more accurately.
- iii) The 1-4 year mortality is 33.6 in Scheduled Tribes and 10.3 in the non-Scheduled Tribes. There is a scope for corrective action like immunization, management of acute respiratory infections, Diarrhea and Malnutrition.
- iv) A very high IMR and U5MR in seven states namely Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh, Gujarat, Rajasthan and Andhra Pradesh need urgent attention.

Table 7.6: Trends in Neonatal, Infant and Under-five mortality rates for Scheduled Tribes and Total Population by State/UTs

States/UTs/UT	Neonatal Mortality Rate				Infant Mortality Rate				Child Mortality Rate			
	Sched uled Tribes	Total	Schedu led Tribes	Total	Sched uled Tribes	Total	Sched uled Tribes	Total	Sched uled Tribes	Total	Sched uled Tribes	Total
	1992-93		1998-99		1992 -93		1998-99		1992 -93		1998-99	
Jammu & Kashmir	*	32	*	38	*	45	*	63	*	59	*	79
Himachal Pradesh	*	34	*	25	*	56	*	40	*	69	*	48
Rajasthan	42	37	58	54	75	73	95	88	124	103	155	125
Uttar Pradesh	116	60	51	62	90	100	83	95	128	141	125	132
Bihar	59	54	56	49	97	89	82	76	136	128	117	110
Sikkim	*	*	*	26	*		*	44	*		*	71
Arunachal Pradesh	*	18	*	42	*	40	*	42	*	72	*	98
Nagaland	*	10	*	20	*	17	*	42	*	21	*	64
Manipur	*	25	*	19	*	42	*	37	*	62	*	56
Mizoram	*	8	*	19	*	15	*	37	*	29	*	55
Tripura	*	44	*	*	*	76	*		*	105	*	*
Meghalaya	*	38	*	51	*	64	*	89	*	87	*	122
Assam	48	52	33	37	90	89	59	62	150	142	74	80
West Bengal	88	52	58	34	107	75	85	51	133	99	100	71
Odisha	53	65	56	56	113	112	99	89	149	131	138	116
Madhya Pradesh	60	53	69	60	103	85	101	93	167	130	180	145
Gujarat	62	42	31	42	92	69	60	64	127	104	95	91
Maharashtra	40	36	49	38	66	51	74	53	99	70	92	70
Andhra Pradesh	56	45	58	47	85	70	104	71	134	91	116	91
Karnataka	68	45	63	44	86	65	85	62	120	87	121	83
Goa	*	20	*	*	*	32	*	*	*	39	*	*
Kerala	*	16	*	15	*	24	*	21	*	32	*	26
Tamil Nadu	*	46	*	36	*	68	*	51	*	*	*	65
India	55	49	53	43	91	79	84	68	135	109	127	95

Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-1 (1992-93) and NFHS 2 (1998-99, India. Mumbai; Note: 'Total' includes SCs, Scheduled Tribes, OBCs and Others;

Table 7.6 indicates that during the period 1992-98, there has not been much significant change in IMR and U5MR among Scheduled Tribes.

Comment: In Scheduled Tribes population, there was only about 10 percent reduction in the IMR during 1992-98, whereas in the total population about 25 percent reduction occurred during the same period.

7.6 Fertility

Table 7.7 provides **Total Fertility Rate (TFR)** from NFHS 3 (2005-06). For India as a whole, the estimated TFR among the Scheduled Tribe population was around 3.1 against estimate of 2.4 for the rest of the population. In view of socio-economic condition of the Scheduled Tribes population the TFR of 3.1 was not high.

Table 7.7: Total fertility rates for Scheduled Tribes and Others by State/UTs

States/UTs	Scheduled Tribes	Others
Andhra Pradesh	*	1.6
Arunachal Pradesh	3.1	2.8
Assam	2.5	2.7
Bihar	#	3.4
Chhattisgarh	2.8	1.8
Goa	*	1.8
Himachal Pradesh	&	1.8
Jammu & Kashmir	*	2.1
Jharkhand	3.8	2.8
Karnataka	2.5	2.0
Kerala	&	2.2
Madhya Pradesh	3.8	2.3
Maharashtra	2.4	2.1
Manipur	3.8	2.6
Meghalaya	4.2	*
Nagaland	3.5	3.2
Odisha	3.1	2.0
Rajasthan	3.7	2.8
Sikkim	1.9	2.2
Tripura	*	2.1
Uttar Pradesh	5.3	3.2
Uttarakhand	*	2.4
West Bengal	*	2.3
India	3.12	2.35

Note: 'Others' does not include Schedules Castes and Other Backward Castes.

Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-3), 2005-06: India. Mumbai.

It may be observed from Figure 1 below that **contraceptive use** (currently married women aged 15-49 using any contraceptive method) among Scheduled Tribes at the all-India level has been comparable to Non-Scheduled Tribe population (41 percent versus 49 percent). In view of the socio-economic context, there are two possible explanations related to a relatively high contraceptive use in Scheduled Tribes. Firstly, it may be that tribal populations have access to contraception and they are regulating the fertility, which in long run may be beneficial in terms of mother child health. The second view is that Indian family welfare program has been sterilization dominated driven by incentives and therefore the poor people fighting with hunger opt to use sterilization to get money. In fact, many demographers feel that this is one of the strategies of poor to overcome poverty.

There are more than 15 states and India as a whole where Contraceptive Prevalence Rate (CPR) is more than 40 per cent (Fig.7.1) indicating the fact that large population is in contact with health system. The states where CPR is low among tribes are those whose overall performance is poor. Nevertheless the gap between Scheduled Tribes and Non-Scheduled Tribes is not very alarming, as far as use of contraception is concerned.

Figure 7.1:

Fig. 1: CONTRACEPTIVE USE (2007-08)

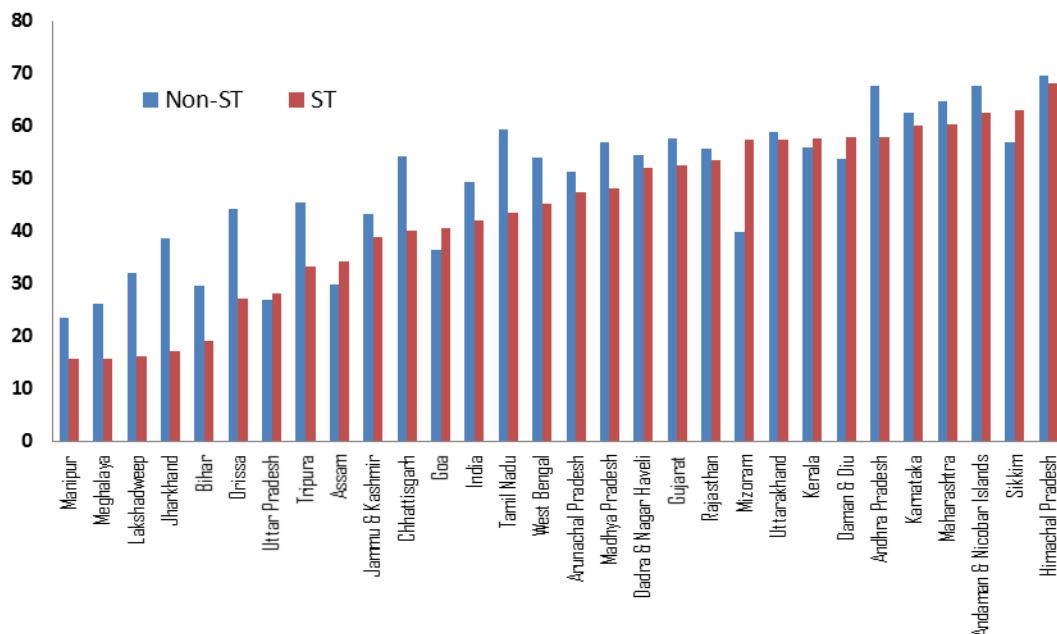


Table 7.8: Percentage of currently married women aged 15-49 years, currently using any modern contraceptive method by states/India

States/UTs	Scheduled Tribes		Non-Scheduled Tribes	
	Percentage	Sample	Percentage	Sample
Jammu & Kashmir	38.9	2508	43.3	12165
Himachal Pradesh	68.1	1077	69.6	8545
Uttarakhand	57.3	268	58.9	11839
Rajasthan	53.5	6190	55.6	32607
Uttar Pradesh	28.1	1177	27.0	81631
Bihar	19.2	927	29.6	43412
Sikkim	63.0	1966	57.0	2210
Arunachal Pradesh	47.3	10794	51.2	3072
Manipur	15.8	4597	23.4	4156
Mizoram	57.3	6598	39.8	247
Tripura	33.3	1560	45.5	2361
Meghalaya	15.8	5604	26.2	566
Assam	34.3	6928	29.8	21662
West Bengal	45.3	1547	54.0	18995
Jharkhand	17.2	8364	38.7	17411
Orissa	27.1	7212	44.1	19154
Chhattisgarh	40.1	6582	54.1	10337
Madhya Pradesh	48.0	10488	56.9	33701
Gujarat	52.4	5875	57.7	17110
Daman & Diu	57.8	279	53.6	1499
Dadra & Nagar Haveli	51.9	573	54.4	304
Maharashtra	60.4	6018	64.8	26569
Andhra Pradesh	57.9	2075	67.5	17756
Karnataka	60.0	2269	62.4	22935
Goa	40.5	118	36.5	1238
Lakshadweep	16.2	1240	32.0	24
Kerala	57.7	234	55.8	11438
Tamil Nadu	43.5	429	59.4	24158
Andaman & Nicobar Islands	62.4	86	67.5	1639
India	41.9	103835	49.3	500969

Note: Percentage is weighed and sample size is un-weighted.

Source: International Institute for Population Sciences (IIPS), District Level Household and facility Survey, (DLHS-3), 2007-08: Mumbai, India

7.7 Disease Patterns

Quality epidemiological data on the national prevalence and incidence of various diseases among Scheduled Tribes is almost non-existent. The Indian Council of Medical Research (ICMR), through its various national institutes and centers, collects data on some diseases in certain states and among some tribes. Qualitative impressions of the stakeholders and the doctors/NGOs working in Scheduled Areas are some of the other sources utilized to make conclusions.

Based on these, below are some broad generalizations.

The diseases prevalent in tribal areas can be broadly classified into following categories:

- A) Malnutrition – Low birth weight, under-nutrition of children, lower body size of adults, anemia, iron and vitamin A and B deficiency.
- B) Maternal and child health problems – higher IMR, U5MR, neonatal mortality, acute respiratory infections, and diarrhea.
- C) Communicable diseases – malaria, filaria, tuberculosis, leprosy, skin infections, sexually transmitted diseases, HIV, typhoid, cholera, diarrheal diseases, hepatitis, and viral fevers.
- D) Accidents and injuries – including the burns, falls, animal bites, snake bites, violence due to conflicts, and more recently, motor cycle accidents.
- E) High consumption of alcohol and tobacco in most areas and of drugs in the Northeast region.
- F) Hereditary diseases such as the Hemoglobinopathies (Sickle Cell) and G-6 PD deficiency.
- G) Mental health problems – especially in the areas affected by conflicts.
- H) Speciality problems – especially the orthopedic and surgical problems, gynecological problems, oro-dental problems and eye problems.
- I) Non-communicable illnesses – hypertension, stroke, diabetes, and cancers.

Generally, we may conclude, that the Scheduled Tribes in India suffer predominantly from:

A) The diseases of underdevelopment (malnutrition, communicable diseases, maternal and child health problems),

B) Diseases, particularly common in Scheduled Tribe population (Sickle cell disease, animal bites, accidents) and

C) Diseases of modernity (hypertension, high consumption of alcohol and tobacco, stress).

7.8 Nutrition

For this section, data is heavily borrowed from three studies carried out by the National Nutrition Monitoring Bureau (NNMB), a body of the Indian Council of Medical Research. We extensively quote from the latest report.¹⁰⁴ We have maintained the figure numbers as in the NNMB report.

¹⁰⁴ National Nutrition Monitoring Bureau : Diet and Nutritional Status of Tribal Population and Prevalence of Hypertension among Adults – Report on Second Repeat Survey, NIN, ICMR Hyderabad (2009)

'The National Nutrition Monitoring Bureau carried out a repeat survey in ITDA areas during 2007-08, covering 75 percent of the villages (90), which were surveyed during 1985-87 and 1998-99 and 25 percent of the new villages (30), to assess the current diet and nutritional status and time trends, if any, in the nutritional status and food consumption pattern of tribal population.

In view of recent increase in prevalence of overweight and obesity and its co-morbidities among urban, rural and tribal communities in epidemic proportions, assessment of prevalence of overweight and obesity and hypertension among tribal adult men and women (≥ 20 years) was also carried out, in addition to the diet and nutrition surveys in nine NNMB States.

A total of 1,15,113 individuals were covered for nutritional anthropometry, clinical examination and current history of morbidity, from 40,359 households in 1032 villages of the 9 states. Data on food and nutrient intake was collected from 41,057 individuals of different age and sex groups from about 10,077 households. Measurement of blood pressure, waist and hip circumference and information on knowledge and practices about hypertension and diabetes was collected among 47,410 adults of ≥ 20 years.'

7.8.1 Findings

Selected findings from the NNMB report on the Scheduled Tribe population are reproduced here, followed by a discussion and conclusions by the NNMB. All figures and data relate to the population in Integrated Tribal Development Project areas.

- It was observed that, in general, the overall intake of various foods were less than Recommended Daily Allowance (RDA). Similarly, the average intakes of all the nutrients, except for thiamine and vitamin C were less than RDA.
- Cereals and millets formed the bulk of the diets in all the States. The intake of protective / income-elastic foods such as green leafy vegetables, milk and milk products, fats and oils were well below the recommended levels. The inadequacy was greater among younger age groups.
- The extent of dietary energy and proteins inadequacy was more pronounced, reiterating the fact that, it is essentially a 'food gap'. The intakes of various micronutrients, specifically that of iron, vitamin A, riboflavin and folic acid was found to be grossly inadequate, which is in consonance with inadequate intake of protective foods.
- The average intake of all nutrients, barring thiamine, niacin and vitamin C declined over the period 1998-99 to 2007-08. The intake of most of the nutrients declined in Tamil Nadu, Karnataka, Andhra Pradesh and Maharashtra, Orissa and West Bengal during the same period.

- The proportion of tribal population of different age groups consuming less than 70 percent of protein and energy was observed to be higher compared to their rural counterparts. About 29-32 percent of children of different age groups and 63-74 percent among adult men and women were consuming diets that were adequate in both protein and energy. The proportion of individuals with protein-calorie adequacy decreased among all the age groups, during the same period.
- The prevalence of clinical forms of protein-energy malnutrition, vitamin deficiency, signs like Bitot spots and angular stomatitis declined over the period 1998-99 to 2008-09. The distance charts revealed that there was marginal improvement in the weight and height of individuals of different age groups and both the genders over the period, but continued to be lower than the median NCHS values.
- Though, the overall prevalence of underweight, stunting and wasting (WHO standards) among 1-5 year tribal children was higher (52 percent, 55 percent and 22 percent versus 43 percent, 49 percent and 19 percent respectively), compared to their rural counterparts, but was slightly lower than the previous survey carried out in 1998-99 (57 percent, 58 percent and 23 percent respectively).
- Similarly the overall prevalence of severe underweight (weight for age <Median-3SD) also declined from 23 percent in 1998-99 to 20 percent in 2007-08, severe stunting decreased from 31 percent to 26 percent, while the prevalence of severe wasting, has declined marginally from seven percent to six percent (NNMB 1998-99). Thus, it was concluded that the improvement in the nutritional status of preschool children was only marginal. The prevalence of under-nutrition was higher among 1-3 year children as compared to 3-5 year children as was observed in other studies.
- The prevalence of chronic energy deficiency (BMI<18.5) had decreased by about nine percent in adult men and by about six percent in adult women during 1998-99 to 2007-08, while the prevalence of overweight/obesity (BMI≥23) had increased from 3.6 percent to seven percent among men and four percent to eight percent among women during the same period. It was observed that the prevalence was 17 percent among men and 20 percent among women for the rural counterparts.

The marginal improvement in the nutritional status of the individuals, despite a decline in the food and nutrient intake, could be attributed to non-nutritional factors, such as improvement in access to safe drinking water, better out-reach of health care services and improvement in socio-economic conditions.

From this we can conclude that, under-nutrition is still an important public health problem among tribal children and urgent strengthening of nutrition interventions and other programs focused towards food and nutrient security among the population are needed.

Figure 7.2:

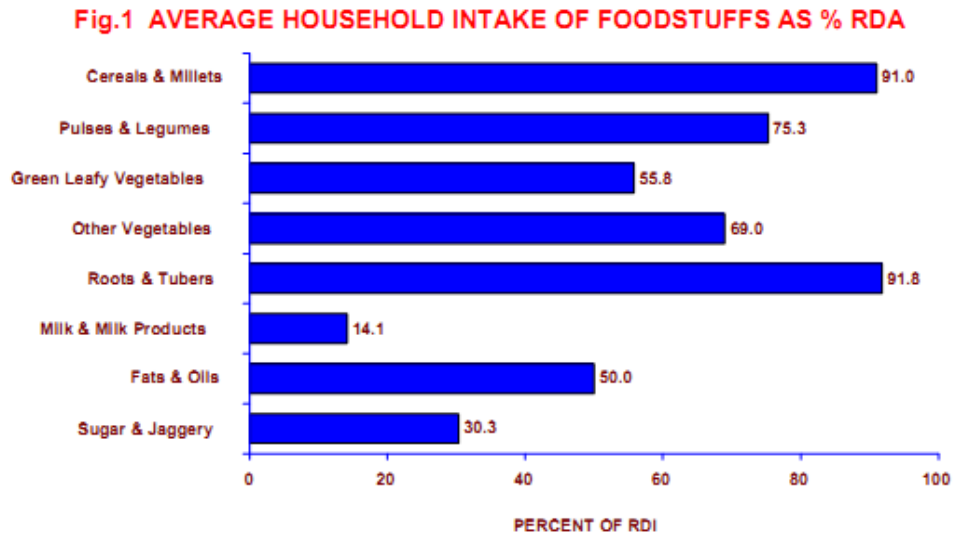


Figure 7.3:

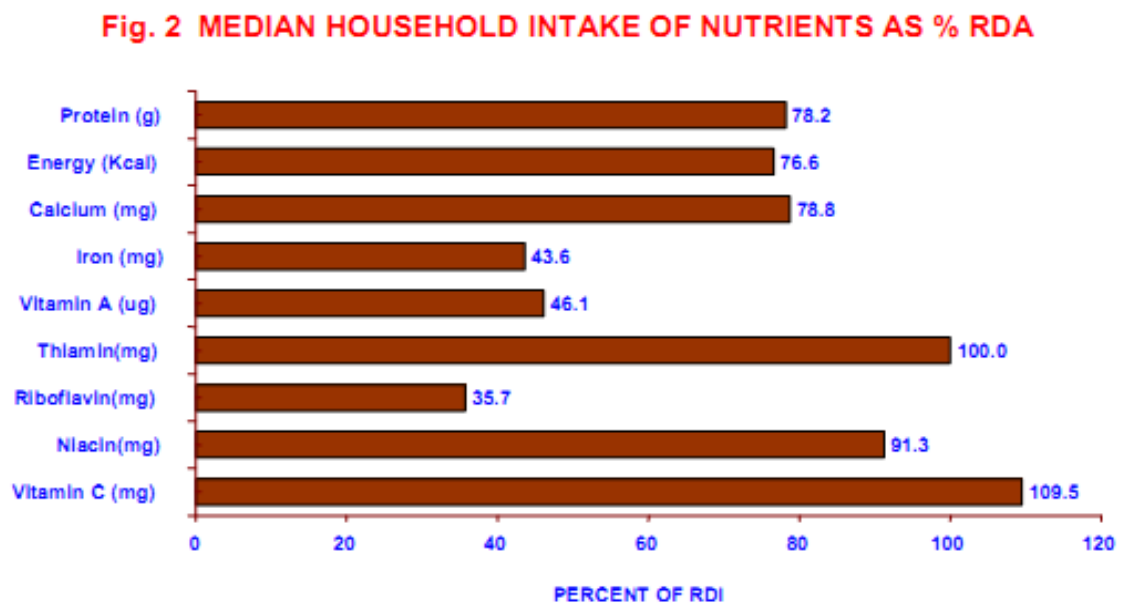


Figure 7.4

Fig.3 AVERAGE INTAKE OF FOODSTUFFS AS %RDA
1-3 YEARS CHILDREN

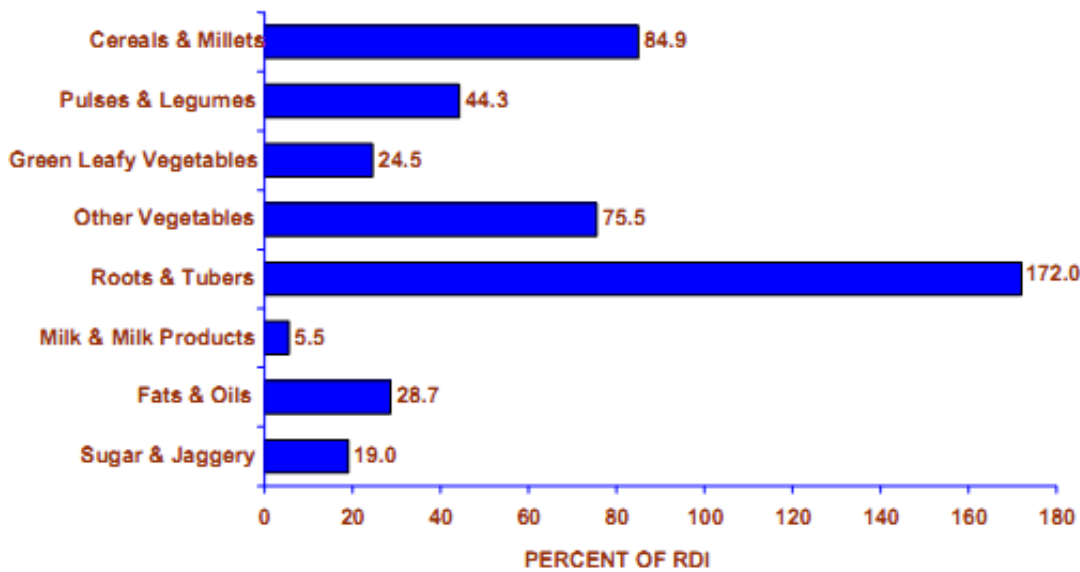


Figure 7.5:

Fig.7 MEDIAN INTAKE OF NUTRIENTS AS % RDA AMONG
1-3YEARS CHILDREN

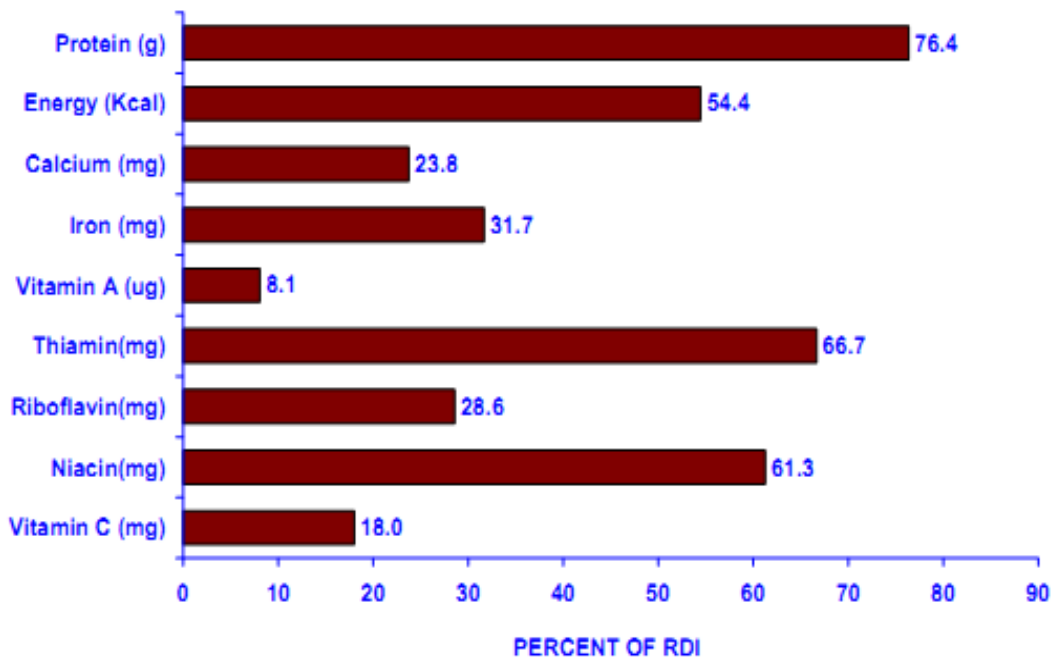


Figure 7.6:

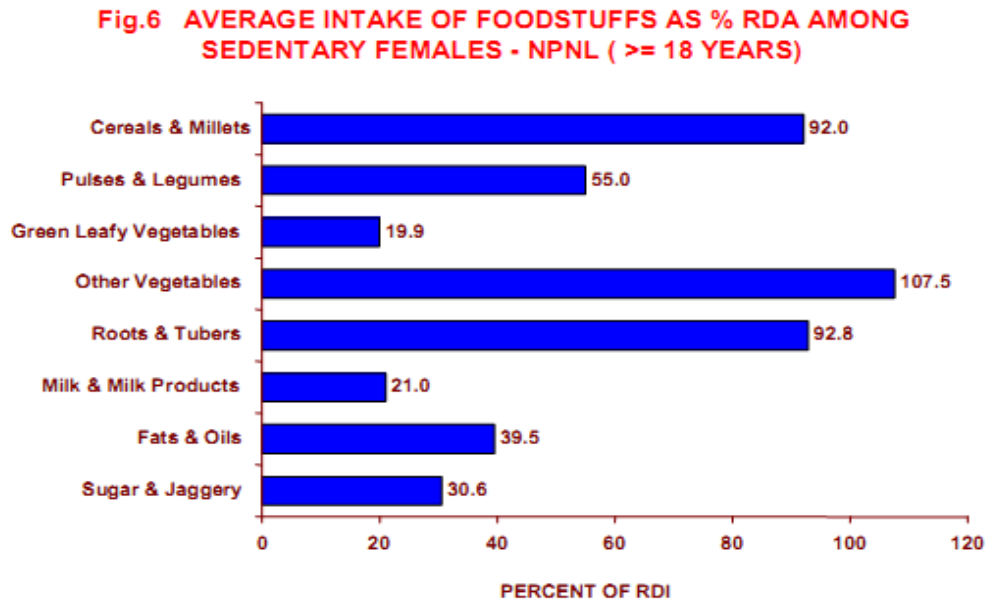


Figure 7.7:

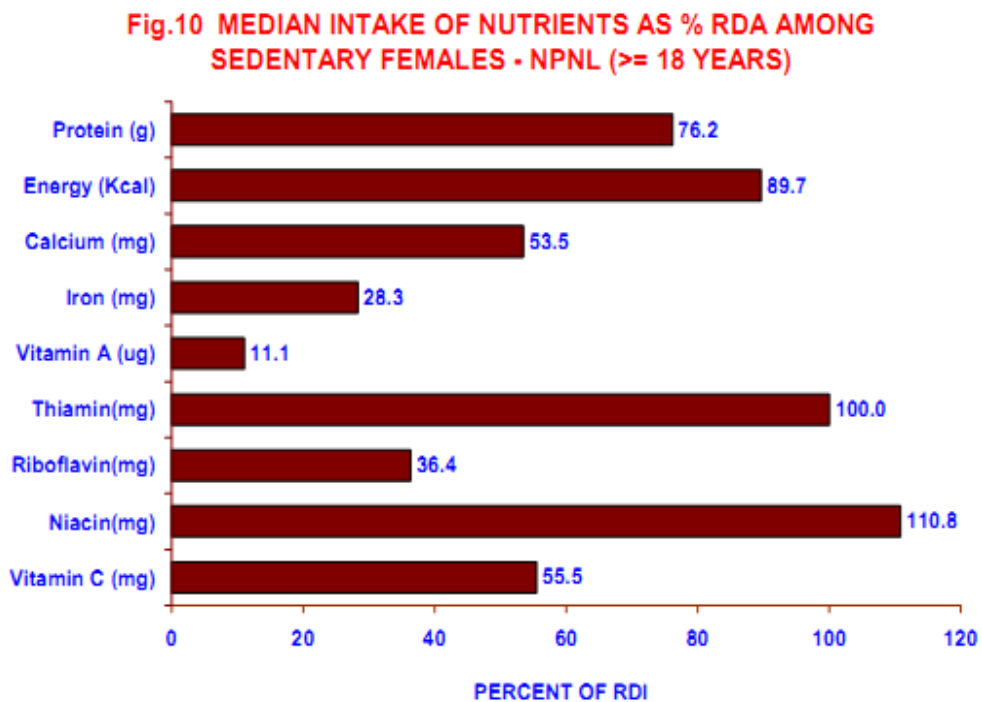


Figure 7.8:

Fig. 13 PREVALENCE (%) OF UNDERNUTRITION AMONG PRE-SCHOOL CHILDREN ACCORDING TO SD CLASSIFICATION (WHO) BY GENDER

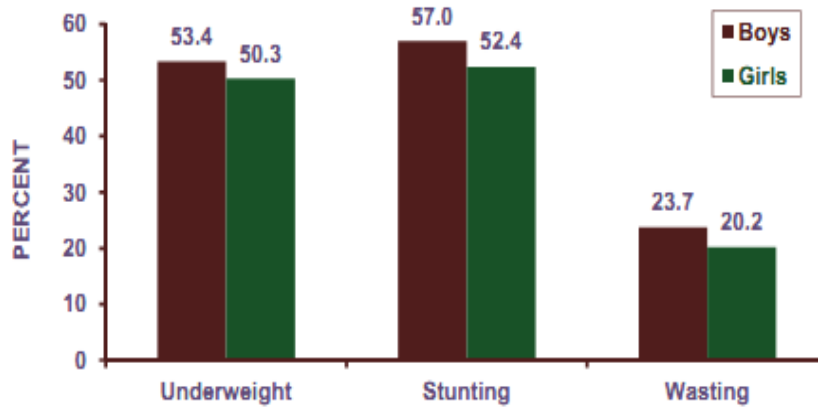


Figure 7.9:

Fig. 14 DISTRIBUTION (%) OF ADULTS BY BMI GRADES

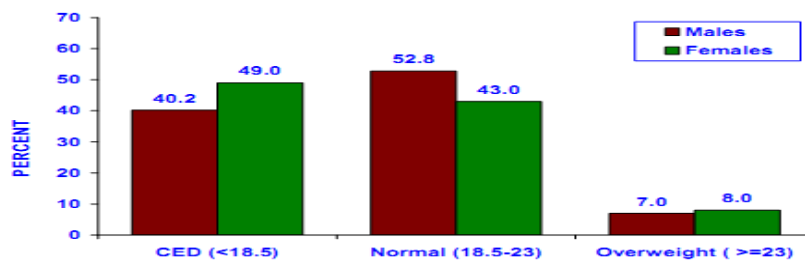


Figure 7.10:

Fig. 25 PERCENT PREVALENCE OF NUTRITIONAL DEFICIENCY SIGNS OF PRESCHOOL CHILDREN : TIME TRENDS

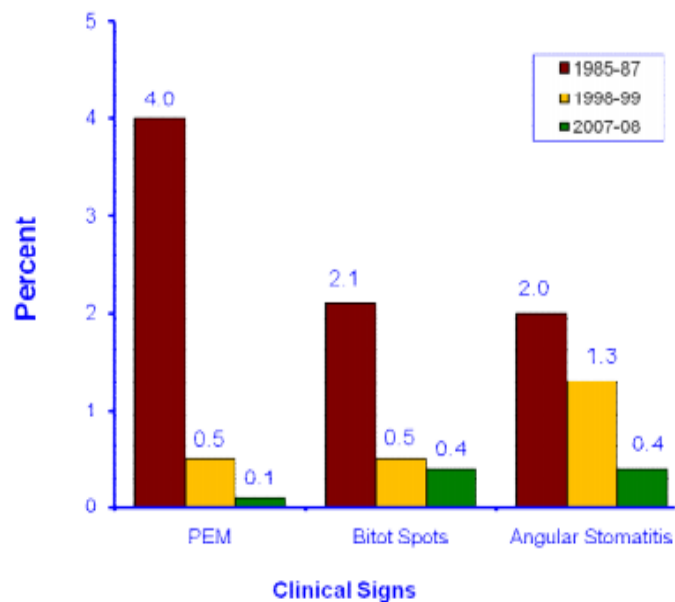


Figure 7.11:

Fig.21 MEAN INTAKE OF NUTRIENTS AMONG 1-3 YEARS CHILDREN - TIME TRENDS

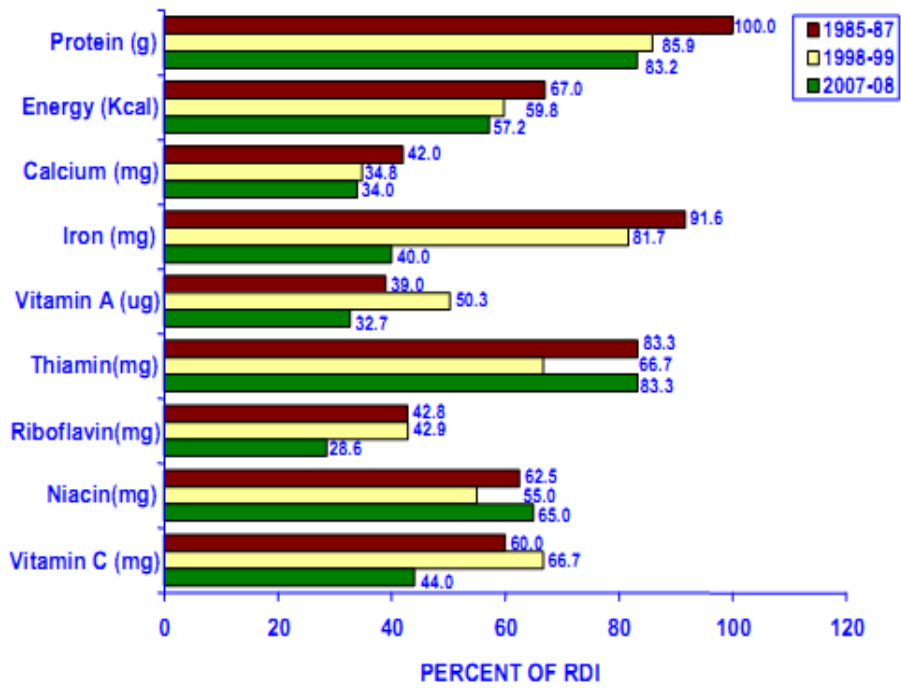


Figure 7.12:

Fig. 35 DISTRIBUTION (%) OF CHILDREN (1-5 Yrs.) ACCORDING TO GOMEZ CLASSIFICATION : TIME TRENDS

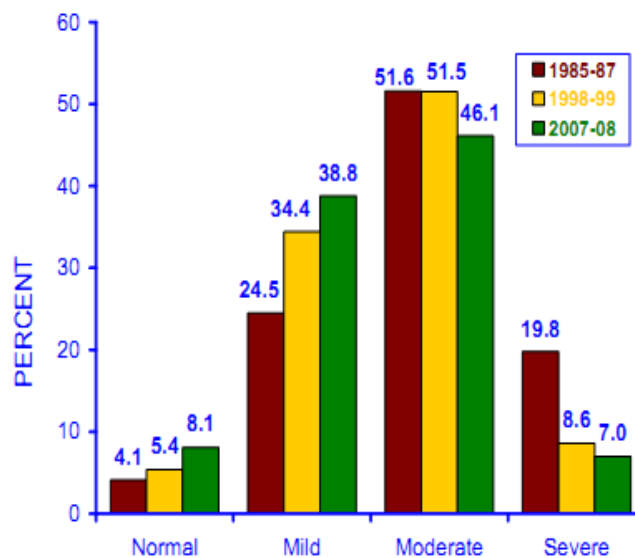
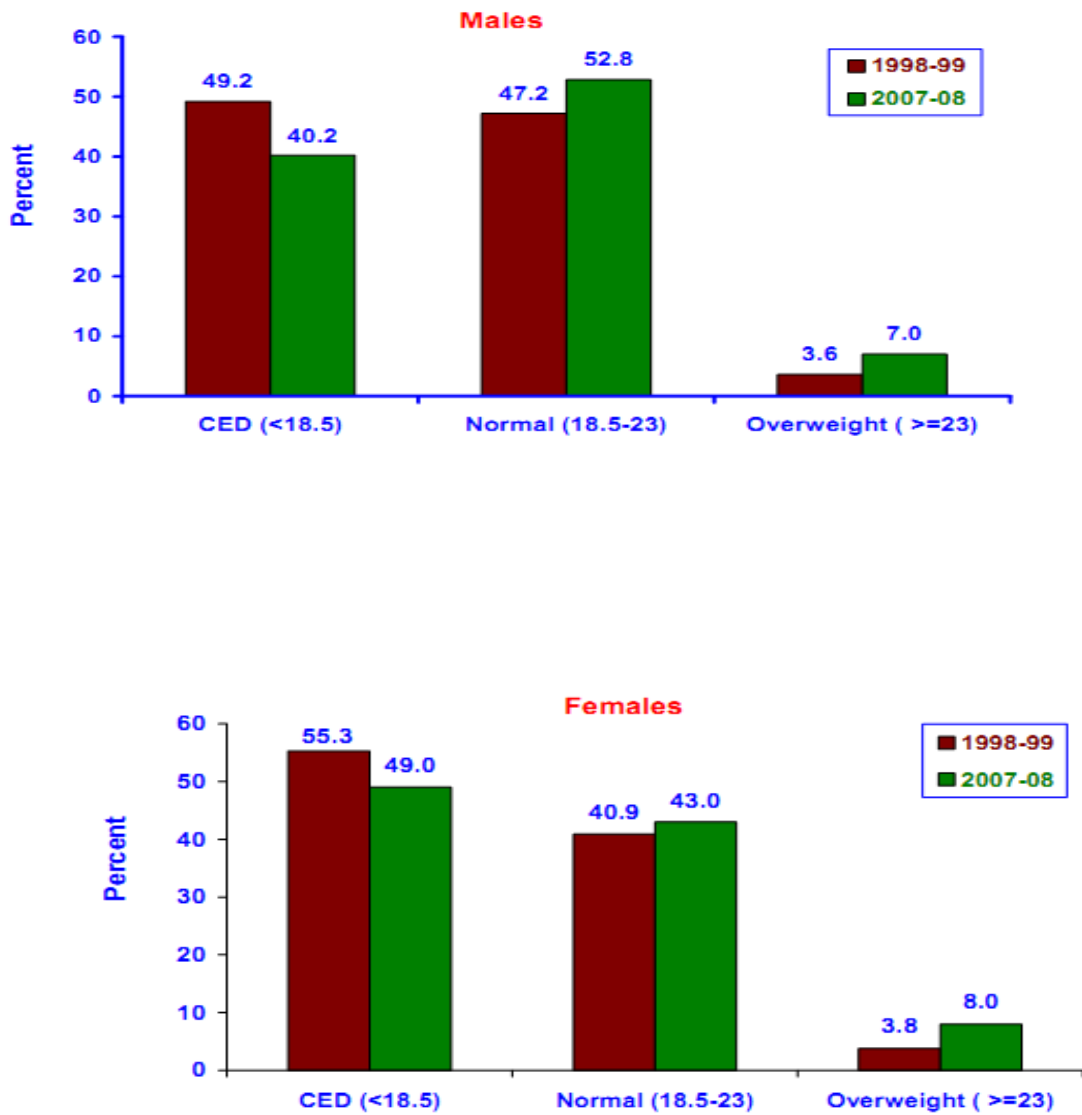


Figure 7.13:

Fig.36 DISTRIBUTION (%) OF ADULTS BY BMI GRADES AND YEARS



7.9 Hypertension

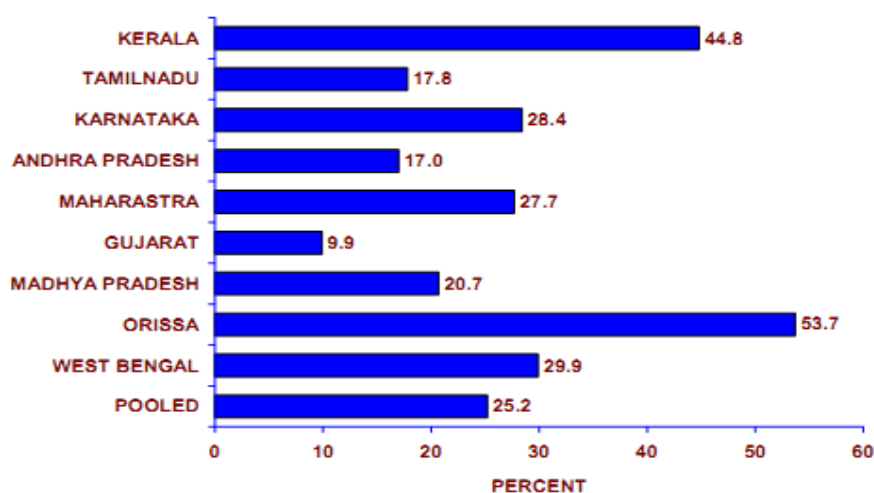
The NNMB survey of Scheduled Tribe population, showed that:

The prevalence of hypertension¹⁰⁵ among adult tribal population, was 25 percent among men and 23 percent among women, which was comparable to that reported for rural adults. A study carried out among tribal population of aboriginal Nicobarees in 2010 reported very high (50 percent) prevalence of hypertension. Prevalence of hypertension increases with age and was higher among elderly population as observed in other studies. Awareness of hypertension was however very low (8.4 percent) among adult tribal population which is similar with other studies. It was also observed that the prevalence of hypertension was higher in the State of Kerala and Orissa, as observed by other studies in Kerala.

Also, prevalence of hypertension increased and is found to be significantly higher among tribal adult population of Odisha and Kerala. It was also noted that the prevalence of hypertension was relatively higher among older adults, compared to young adults and in men compared to women. The prevalence was also highest in the States of Orissa and Kerala and significantly lower in Gujarat. It is also observed that there is a low level of awareness about the condition. Hence, increased awareness about the condition through health education, and early diagnosis and prompt treatment will prevent consequences, due to hypertension such as cardiovascular diseases, peripheral vascular diseases, kidney diseases etc. Information, Education and Communication activities addressing the issue of hypertension need to be strengthened in these areas.

Figure 7.14:

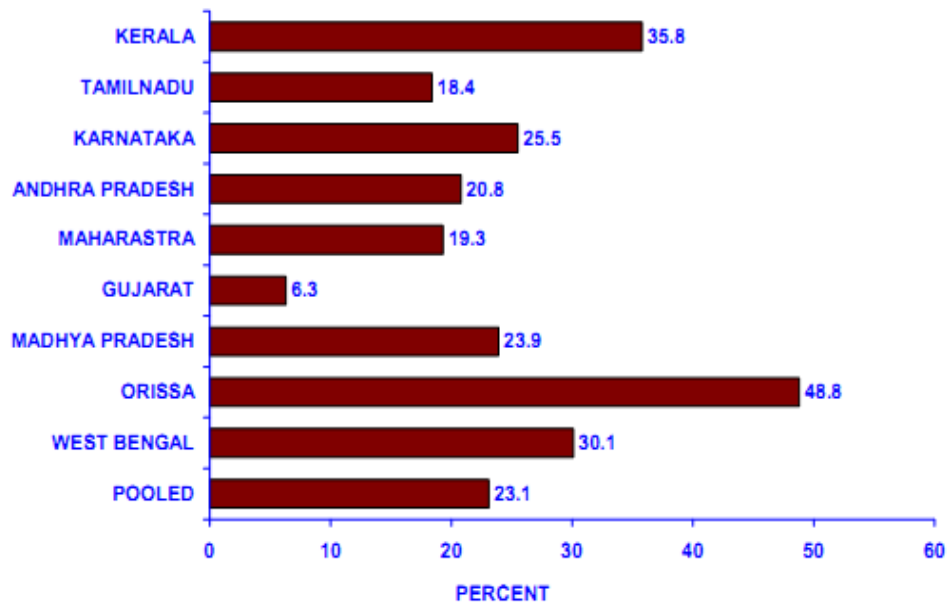
Fig. 15 PREVALENCE (%) OF HYPERTENSION BY STATES - MALES



¹⁰⁵ As per Criteria of Joint National Committee On Prevention, Detection, Evaluation and Treatment Of High Blood Pressure VII Report.

Figure 7.15:

Fig. 16 PREVALENCE (%) OF HYPERTENSION BY STATES - FEMALES



7.10 Consumption of Tobacco and Alcohol

7.10.1 Consumption of Tobacco

Consumption of tobacco or alcohol in any form has negative implications on health causing diseases such as cancer and tuberculosis. Table 7.9 provides data on consumption of **tobacco**, both through smoking or chewing among men belonging to Scheduled Tribes and Non-Scheduled Tribes, in the age group, 15-54 years. The prevalence of tobacco consumption was around 72 and 56 percent among Scheduled Tribes and Non-Scheduled Tribes respectively. The rural-urban gap exists between the two groups, where more rural men consumed tobacco than urban men. Around 73 percent rural Scheduled Tribe men consumed tobacco as compared to 60 percent among urban counterparts. The prevalence of tobacco consumption among Scheduled Tribe men was quite high in states like West Bengal, Bihar, Mizoram and Odisha (more than 80 percent).

Table 7.9: Prevalence of Tobacco consumption (Smoke/Chewing) among Men aged 15-54, (NFHS (2005-06))

States/UTs	Scheduled Tribes			Non-Scheduled Tribes		
	Urban	Rural	Total	Urban	Rural	Total
Jammu & Kashmir	45.1	46.8	46.6	46.3	57.2	53.7
Himachal Pradesh	9.1	31.5	28.6	32.8	42.8	41.5
Uttarakhand	82.9	79.7	80.9	48.1	56.8	53.7
Rajasthan	72.2	75.5	75.2	55.7	61.5	59.4
Uttar Pradesh	57.8	88.3	83.2	57.7	67.9	64.8
Bihar	74.6	85.7	84.2	59.6	70.2	67.7
Sikkim	68.0	53.7	55.5	65.8	66.7	66.4
Arunachal Pradesh	62.5	53.7	55.5	69.2	75.6	73.1
Nagaland	66.2	67.8	67.5	67.9	67.1	67.2
Manipur	72.7	74.8	74.7	66.5	69.7	68.3
Mizoram	81.6	86.2	83.8	85.7	*	78.3
Tripura	79.3	79.0	79.2	69.7	78.7	77.0
Meghalaya	68.4	70.6	70.2	62.3	75.5	69.6
Assam	78.3	75.5	75.6	65.7	74.6	72.4
West Bengal	60.1	89.7	87.8	70.4	69.9	70.1
Jharkhand	56.6	75.3	74.0	50.0	63.2	58.1
Odisha	77.5	80.8	80.4	60.7	67.2	65.7
Chhattisgarh	73.4	76.5	76.3	62.9	67.1	65.8
Madhya Pradesh	65.6	74.9	74.1	60.3	72.0	67.7
Gujarat	33.3	67.3	64.6	56.3	62.5	59.5
Maharashtra	58.1	64.7	63.4	44.3	51.8	47.5
Andhra Pradesh	40.6	67.5	63.4	39.2	44.5	42.6
Karnataka	49.5	58.2	55.3	36.6	50.5	44.5
Goa	28.2	37.3	34.1	24.0	31.3	27.1
Kerala	100.0	72.2	73.7	39.3	45.6	43.4
Tamil Nadu	21.4	68.9	61.8	36.7	45.1	40.8
India	60.3	73.3	71.7	50.0	60.3	56.3

* Cannot be estimated due to limited no. of cases.

Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-3), 2005-06: India. Mumbai.

A study by SEARCH in the Gadchiroli district, Maharashtra, has reported 60 percent prevalence of tobacco use in tribal population. The estimated annual expenditure on purchasing tobacco products in the district was Rs. 73 crores, which is much more than the expenditure on health and nutrition schemes by the Government¹⁰⁶. The authors of this study suggested that tobacco contributes to poverty and impedes development of tribal population

7.10.2 Consumption of Alcohol

Consumption of alcohol is a part of social rituals in many tribal communities. **Alcohol** consumption among Scheduled Tribe and Non-Scheduled Tribe men, aged 15-54 years is shown in Table 7.10. At the national level, it is noted that about half of Scheduled Tribe men (51 percent) consume some form of alcohol. The prevalence of alcohol consumption was found to be much lower among non-Scheduled Tribe men (30 percent). Therefore, such a pattern of drinking alcohol among Scheduled Tribe men is bound to have negative effect on their health. The estimated prevalence among Scheduled Tribes is found to be higher in the eastern states like Assam (70 percent), West Bengal (70 percent), Odisha (69 percent), Chhattisgarh (67 percent), Jharkhand (67 percent) followed by Arunachal Pradesh (66 percent) and Andhra Pradesh (66 percent). On the other hand, states like Himachal Pradesh, Maharashtra, Gujarat, and Rajasthan show relatively lower prevalence of alcohol consumption (around 30 percent). In a few exceptional cases like Sikkim, Manipur, West Bengal, Maharashtra and Goa, a higher proportion of urban Scheduled Tribe men drink alcohol as compared to their rural counterparts.

¹⁰⁶ Santosh Sawalkar et al, *Tobacco vs Development: Private Spending on tobacco in Gadchiroli district, Economic and Political Weekly*, Vo. XLVII, No.5, February 2, 2013.

Table 7.10: Prevalence of alcohol consumption among men aged 15-54 years

	Scheduled Tribes			Non-Scheduled Tribes		
	Urban	Rural	Total	Urban	Rural	Total
Jammu & Kashmir	14.3	1.8	3.2	13.2	13.5	13.4
Himachal Pradesh	*	33.3	30.0	32.7	30.8	31.1
Uttarakhand	50.0	45.5	46.7	34.5	42.7	39.8
Rajasthan	34.1	30.3	30.6	22.1	15.3	17.7
Uttar Pradesh	25.0	38.5	36.2	25.8	25.1	25.3
Bihar	50.0	57.5	56.5	30.5	35.7	34.5
Sikkim	66.7	46.7	50.0	37.5	45.5	43.3
Arunachal Pradesh	70.0	65.0	66.0	42.9	63.6	55.6
Nagaland	43.8	42.6	42.9	25.0	26.7	25.8
Manipur	50.0	47.1	47.2	48.0	47.7	47.8
Mizoram	43.8	37.9	41.0	50.0	*	50.0
Tripura	33.3	64.1	61.9	39.6	35.3	36.1
Meghalaya	47.2	52.9	51.6	29.4	50.0	41.0
Assam	66.7	70.3	70.1	31.0	35.6	34.5
West Bengal	75.0	69.3	69.7	34.7	29.9	31.6
Jharkhand	44.8	68.4	66.9	25.0	32.0	29.3
Odisha	49.3	71.6	69.1	29.6	29.7	29.7
Chhattisgarh	63.9	67.0	66.8	43.4	48.1	46.6
Madhya Pradesh	45.2	48.9	48.6	26.6	26.7	26.7
Gujarat	33.3	31.1	31.3	17.4	11.1	14.1
Maharashtra	36.2	28.5	30.1	26.1	20.6	23.7
Andhra Pradesh	62.5	66.6	65.9	43.2	47.9	46.2
Karnataka	36.3	35.6	35.8	29.9	27.5	28.5
Goa	50.0	40.0	44.4	41.0	40.4	40.7
Kerala	*	50.0	53.1	51.3	41.2	44.8
Tamil Nadu	25.0	58.3	53.6	39.0	43.7	41.3
India	44.9	51.3	50.5	30.6	30.3	30.4

* Cannot be estimated due to limited no. of cases.

Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-3), 2005-06: India. Mumbai.

Thus, all the studies cited above show the alarmingly high levels of consumption of tobacco and alcohol in Scheduled Tribe population in India. It is well known that the tribal population is seriously affected by high consumption of alcohol and smoking, often resulting in addiction. Immediate and serious corrective policy measures to curb the same are necessary.

7.11 Determinants of Health: Drinking water, sanitation and fuel

Understanding of households' access to basic amenities, such as improved sources of drinking water, clean fuel, electricity and sanitation, is essential to assess the overall socio-economic status, but also fundamental to the health of the society.

Available survey and census data indicate that very few tribal households have access to improved source of drinking water and sanitation. Census of India, 2011 shows that just about 11 percent of tribal households in the country have access to tap water and only three percent households have tap water from treated source (Table 7.11). Accessibility to tap water, including those treated, differs widely across the states. Availability of tap water in the tribal households ranges from two percent in Odisha to 49 percent in Sikkim and 54 percent in Goa.

Table 7.11: Availability of tap water within the households in India and States/UTs

States/UTs	Availability of tap water						Tap water from treated source					
	Scheduled Tribes			Non-Scheduled Tribes			Scheduled Tribes			Non-Scheduled Tribes		
	¹ T	² R	³ U	¹ T	² R	³ U	¹ T	² R	³ U	¹ T	² R	³ U
Jammu & Kashmir	12.9	10.7	41.3	42.7	28.1	79.4	6.4	4.2	34.0	29.2	14.3	66.7
Himachal Pradesh	47.7	44.7	80.3	54.3	50.5	83.5	45.8	42.7	79.0	52.4	48.5	82.7
Uttarakhand	35.0	27.4	65.4	41.8	29.1	71.4	28.3	19.8	62.3	36.6	23.4	67.3
Rajasthan	6.4	2.8	53.0	33.4	18.1	73.7	5.4	2.0	49.2	28.6	13.2	69.1
Uttar Pradesh	19.8	9.7	43.4	19.3	11.8	45.2	16.7	7.2	38.8	15.3	8.1	40.3
Bihar	3.0	1.5	18.8	2.8	1.1	16.6	2.3	1.1	15.2	2.2	0.9	13.1
Sikkim	48.6	39.9	79.1	54.2	43.2	78.8	19.7	6.7	65.2	24.8	8.3	61.4
Arunachal Pradesh	30.7	22.5	66.2	34.2	19.2	59.0	14.8	8.5	41.9	17.6	8.9	32.0
Nagaland	15.0	12.3	23.9	14.9	9.4	17.9	2.4	1.8	4.4	4.2	2.0	5.4
Manipur	9.8	7.5	26.3	15.0	3.2	29.3	5.2	2.8	22.8	14.1	2.5	28.1
Mizoram	29.7	5.7	52.2	42.1	6.9	55.8	26.1	3.2	47.6	38.3	3.7	51.8
Tripura	4.6	2.7	40.1	18.6	8.0	35.8	3.0	1.4	33.8	14.4	4.4	30.6
Meghalaya	12.6	5.5	46.5	31.7	5.7	63.4	10.5	3.7	42.7	29.4	4.4	60.0
Assam	3.0	1.3	21.6	6.1	2.3	24.6	2.5	1.0	19.7	5.5	2.0	22.6
West Bengal	5.0	2.1	25.8	13.2	2.9	34.2	3.9	1.2	23.1	11.7	1.9	31.5
Jharkhand	2.0	0.3	17.3	9.8	1.1	30.5	1.8	0.2	15.7	8.8	0.8	27.7
Odisha	1.6	0.6	15.7	7.7	1.8	34.0	1.3	0.4	14.7	6.7	1.2	31.2
Chhattisgarh	2.8	0.9	25.1	12.9	3.6	36.1	1.8	0.4	18.8	9.3	1.5	28.8
Madhya Pradesh	3.2	1.4	26.1	16.9	5.6	42.6	2.4	0.7	22.7	13.2	2.8	36.7
Gujarat	17.6	9.5	57.4	62.2	48.2	76.6	10.8	3.3	47.0	38.8	15.1	63.2
Daman & Diu	47.4	42.4	51.8	58.7	68.3	56.3	36.5	34.9	37.9	44.1	63.0	39.5
Dadra & Nagar Haveli	14.4	13.1	20.4	39.2	32.6	40.9	6.9	5.3	14.2	27.2	13.7	30.6
Maharashtra	27.2	16.0	63.5	54.1	34.8	75.2	22.1	10.1	61.1	47.8	24.3	73.3
Andhra Pradesh	16.7	11.1	48.2	37.2	25.5	60.4	11.3	5.3	44.8	29.3	15.4	56.7
Karnataka	21.3	12.5	49.0	35.6	17.6	61.0	15.5	6.4	44.2	28.5	9.4	55.3
Goa	54.3	45.9	65.9	76.1	66.5	81.6	51.3	41.8	64.3	74.2	63.9	80.1
Lakshadweep	16.4	30.4	11.9	21.0	19.8	21.2	5.6	0.7	7.2	16.3	0.0	18.7
Kerala	14.5	11.9	29.7	21.7	16.8	27.1	10.6	7.8	26.2	17.4	11.8	23.6
Tamil Nadu	17.3	5.7	36.5	28.8	13.3	45.3	15.0	4.0	33.3	24.3	9.0	40.5
Andaman & Nicobar Islands	59.8	57.6	95.5	58.2	41.6	99.9	54.7	52.4	89.7	50.6	31.5	95.5
India	10.7	5.6	42.9	28.5	15.2	54.5	7.9	3.0	38.2	23.3	9.7	49.8

Note: 1-Total, 2-Rural, 3-Urban

Source: Census of India, 2011.

Table 7.12 shows **sanitary facility** in Scheduled Tribe and non-Scheduled Tribe households in the country by residence, in which access to improved sanitary facilities and open defecation has been compared. Only 17 percent of Scheduled Tribe households have access to improved sanitary facilities as compared with 44 percent among non-Scheduled Tribe households. The urban-rural difference in accessing improved sanitary facility is very high, with 10 percent of Scheduled Tribes rural households having access to improved sanitation facilities, compared to 61 percent of urban households. Among the states, access to improved sanitation facility by Scheduled Tribes households is highest in Sikkim (76 percent), followed by Mizoram (69 percent) and below 10 percent in Madhya Pradesh, Jharkhand and Rajasthan (7 percent each).

Table 7.12: Households with sanitary facility in India and States/UTs

States/UTs	*Improved sanitary facility						Open defecation					
	Scheduled Tribes			Non-Scheduled Tribes			Scheduled Tribes			Non-Scheduled Tribes		
	¹ T	² R	³ U	¹ T	² R	³ U	¹ T	² R	³ U	¹ T	² R	³ U
Jammu & Kashmir	12.4	9.0	57.6	33.7	20.7	66.6	71.1	74.7	24.3	42.3	55.1	10.2
Himachal Pradesh	55.8	53.2	84.8	66.8	64.2	86.9	36.7	39.4	8.2	29.2	32.1	6.8
Uttarakhand	43.6	33.0	85.9	63.7	52.0	91.0	51.5	61.9	9.9	32.5	44.4	4.6
Rajasthan	6.9	2.8	59.7	33.7	17.6	76.2	91.7	96.1	34.5	59.7	76.3	15.9
Uttar Pradesh	31.5	12.8	75.5	31.4	18.0	77.6	62.3	81.8	16.3	63.0	77.1	14.8
Bihar	11.3	7.3	55.2	19.7	14.5	63.4	85.0	89.6	35.3	75.6	81.2	28.8
Sikkim	76.0	71.5	91.7	79.4	73.8	91.8	12.8	15.9	2.0	10.5	14.2	2.3
Arunachal Pradesh	28.6	17.8	75.4	40.9	23.2	70.1	38.8	46.1	7.1	27.1	39.7	6.4
Nagaland	46.7	37.1	77.7	64.5	36.4	80.0	17.8	22.5	2.2	8.2	19.1	2.2
Manipur	42.1	38.1	71.4	48.7	37.1	62.7	16.4	18.5	1.5	5.0	7.1	2.5
Mizoram	69.0	51.2	85.7	73.3	45.5	84.1	6.6	12.8	0.8	6.0	16.3	2.0
Tripura	39.3	37.0	84.0	72.8	67.5	81.3	30.3	31.7	3.9	3.1	4.3	1.1
Meghalaya	33.0	22.9	81.3	55.7	27.4	90.4	36.2	43.2	3.0	23.4	41.6	1.2
Assam	19.1	14.4	72.0	32.4	23.3	77.4	54.0	58.3	5.8	29.9	34.9	4.9
West Bengal	18.2	11.9	62.5	50.6	35.8	80.9	73.2	79.8	26.1	36.3	48.8	10.9
Jharkhand	7.2	2.8	45.8	25.6	8.1	67.2	90.8	95.5	49.3	71.7	89.8	28.6
Odisha	5.0	3.3	29.2	22.3	13.1	62.9	91.6	93.4	65.7	72.1	81.7	29.6
Chhattisgarh	10.7	8.2	40.8	26.0	12.1	60.8	84.6	87.2	54.0	69.2	84.0	32.0
Madhya Pradesh	6.7	3.5	45.6	31.9	13.6	73.3	90.9	94.3	48.5	64.3	83.5	20.7
Gujarat	22.3	12.8	68.6	62.0	36.9	87.7	73.5	83.9	23.0	34.5	60.5	7.9
Daman & Diu	36.4	19.6	51.1	80.0	54.6	86.2	54.1	76.6	34.6	7.9	28.3	2.9
Dadra & Nagar Haveli	15.8	9.3	45.0	85.6	79.6	87.2	80.8	88.2	47.5	5.7	11.8	4.1
Maharashtra	26.9	17.8	56.6	52.8	37.6	69.3	59.7	73.3	15.2	31.0	52.9	7.3
Andhra Pradesh	17.8	9.0	67.6	49.4	32.6	82.6	78.0	87.3	25.9	45.6	62.9	11.4
Karnataka	26.9	14.3	66.7	50.6	27.9	82.7	66.9	80.8	23.0	43.3	66.9	10.2
Goa	53.6	46.7	63.2	77.0	67.8	82.3	36.3	45.0	24.4	14.1	24.1	8.4

Lakshadweep	97.9	97.8	97.9	89.2	97.7	87.9	1.5	1.7	1.4	7.1	1.2	8.0
Kerala	62.8	58.4	88.1	90.3	88.3	92.5	25.7	29.5	4.2	3.4	4.9	1.7
Tamil Nadu	32.2	11.6	66.2	46.1	21.7	72.0	60.3	83.5	21.9	45.4	73.0	16.1
Andaman & Nicobar Islands	87.4	86.9	95.7	63.6	48.9	86.2	11.5	12.1	2.4	28.9	42.7	7.8
India	17.4	10.4	61.2	44.3	27.1	77.9	74.7	82.4	26.1	47.2	65.3	12.1

*Note: * Flush/Pour latrine connected to Piped Sewer system or Septic tank and Pit Latrine with Slab/Ventilated Improved Pit; 1-Total 2-Rural 3-Urban*

Source: Census of India, 2011.

As the national level data shows, substantial proportion of households, do not have access to sanitation facility, people have either the option of using paid public facilities or are forced to resort to open defecation. The proportion reporting open defecation in both rural and urban areas is quite large, which is a matter of great concern. About 65 percent of non-Scheduled Tribe households and 75 percent of Scheduled Tribe households reported defecating in the open. The proportion is much higher in rural areas for Scheduled Tribes (82 percent) as compared to urban areas (26 percent). Similarly, open defecation is also quite sizeable among Non-Scheduled Tribe households (47 percent), even in urban areas (12 percent). The situation is deplorable when we observe the state level data, where Scheduled Tribe households are at greater disadvantage in states like Rajasthan, Odisha, Jharkhand and Madhya Pradesh as they have lesser access to improved sanitary facilities and mostly resorted to open defecation. These states account for more than 50 percent of tribal population.

The other important component of household and neighborhood environment that affects health is the **drainage facility**. As shown in Table 7.13, only about 6 percent of the Scheduled Tribe households have closed drainage facility, and about 17 percent of Scheduled Tribe households have open drainage facility and above three-fourths (77 percent) of Scheduled Tribe households do not have any drainage facility. Scheduled Tribe households in states like Jammu and Kashmir Rajasthan, Bihar, Sikkim Nagaland, Manipur, Meghalaya Assam, West Bengal, Tripura, Jharkhand, Orissa, Chhattisgarh, Madhya Pradesh, and Union Territories of Dadra and Nagar Haveli have closed drainage facility which is below the national average. Similar situation is observed in case of open drainage facility. Overall, the situation of Scheduled Tribe households are better-off in the West and South Indian states where there are better drainage facilities as these states are also more urbanized compared to other states.

Table 7.13: Households with drainage facility in India and States/UTs

States/UTs	Closed Drainage		Open Drainage		No Drainage	
	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes
Jammu & Kashmir	3.5	13.9	12.7	38.6	83.8	47.4
Himachal Pradesh	21.5	25.1	41.3	40.3	37.2	34.6
Uttarakhand	14.4	19.2	36.4	42.3	49.2	38.5
Rajasthan	2.7	12.1	11.0	34.2	86.3	53.7
Uttar Pradesh	14.7	12.8	45.7	56.2	39.7	30.9
Bihar	4.4	6.7	30.7	35.7	64.9	57.5
Sikkim	12.1	16.0	37.5	38.5	50.4	45.5
Arunachal Pradesh	5.2	7.4	25.9	29.5	68.9	63.2
Nagaland	4.2	8.8	44.0	54.8	51.8	36.4
Manipur	3.7	4.2	37.8	54.5	58.5	41.2
Mizoram	12.9	17.7	46.5	46.8	40.6	35.5
Tripura	1.7	4.6	13.8	26.9	84.5	68.5
Meghalaya	4.5	12.3	28.0	38.6	67.5	49.1
Assam	2.0	3.9	10.5	17.8	87.5	78.3
West Bengal	3.0	9.7	13.4	23.0	83.6	67.4
Jharkhand	1.8	9.3	10.8	26.7	87.4	64.0
Odisha	1.1	5.3	8.9	16.8	90.0	77.9
Chhattisgarh	1.9	6.8	10.2	22.8	87.9	70.4
Madhya Pradesh	1.9	11.9	11.9	35.1	86.2	52.9
Gujarat	10.8	42.0	5.2	10.2	83.9	47.8
Daman & Diu	22.7	40.0	9.0	27.1	68.3	32.9
Dadra & Nagar Haveli	4.2	46.2	4.1	16.6	91.7	37.1
Maharashtra	15.7	35.2	25.7	35.2	58.6	29.5
Andhra Pradesh	8.4	22.6	20.5	36.5	71.1	40.8
Karnataka	13.7	27.0	34.7	34.6	51.6	38.3
Goa	17.0	46.8	32.5	24.3	50.6	29.0
Lakshadweep	10.5	24.3	13.0	12.3	76.5	63.4
Kerala	9.2	25.5	14.1	21.3	76.8	53.2
Tamil Nadu	21.1	25.4	17.9	25.0	61.0	49.5
Andaman & Nicobar Islands	9.5	7.2	20.1	46.7	70.4	46.1
India	6.1	19.4	16.7	34.7	77.3	45.9

Source: Census of India, 2011.

Table 7.14: Households using cooking fuel in India and States, 2011				
States/UTs	Clean ¹		Domestic ²	
	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes
Jammu & Kashmir	11.2	35.9	63.1	52.2
Himachal Pradesh	34.6	39.1	52.3	50.7
Uttarakhand	31.4	45.2	45.6	28.5
Rajasthan	5.0	26.0	17.8	31.9
Uttar Pradesh	20.7	19.1	25.5	24.0
Bihar	4.9	8.5	30.0	26.2
Sikkim	36.8	44.3	55.0	44.8
Arunachal Pradesh	23.9	40.3	66.2	50.1
Nagaland	16.7	44.2	80.3	46.7
Manipur	14.8	37.9	71.5	56.5
Mizoram	52.8	53.5	35.5	25.1
Tripura	6.0	23.0	70.0	67.7
Meghalaya	9.2	37.9	77.2	43.2
Assam	11.0	20.4	78.5	67.8
West Bengal	6.1	19.1	39.8	39.0
Jharkhand	3.9	15.3	28.9	18.8
Odisha	1.9	13.0	55.8	49.0
Chhattisgarh	3.0	15.3	51.6	40.3
Madhya Pradesh	3.6	22.7	33.4	29.1
Gujarat	11.5	44.2	52.4	27.1
Daman & Diu	41.5	54.8	39.8	8.1
Dadra & Nagar Haveli	12.6	63.5	70.9	3.8
Maharashtra	19.2	46.9	41.0	27.8
Andhra Pradesh	12.5	38.5	27.0	21.2
Karnataka	14.3	35.0	65.1	50.3
Goa	42.2	76.8	48.8	15.6
Lakshadweep	17.8	21.3	66.0	35.9
Kerala	10.5	37.0	79.0	59.9
Tamil Nadu	30.6	48.7	32.1	26.6
Andaman & Nicobar Islands	35.1	45.4	54.9	30.0
India	9.5	31.1	43.7	31.5

Note: ¹Clean cooking fuel includes PNG/LPG, Electricity and Biogas, ²Domestic fuel includes fire-wood, crop residue and cow dung cake.

Source: Census of India, 2011.

Table 7.14 shows distribution of households by **type of cooking** fuel used in India and States as per Census of India, 2011. Two different types of fuel used by households are clean fuel and smoke-producing domestic fuel. Clean fuel includes PNG/LPG, electricity and biogas. On the other hand, domestic fuel includes fire-wood, crop residue and cow dung cake. Use of domestic fuel among Scheduled Tribe households is highest in Nagaland (80 percent), followed by Kerala and Assam (79 percent), Meghalaya, Manipur and Tripura (70-77 percent). The use of domestic cooking fuel in these states is much higher than the national average. Overall, use of domestic fuel is much lower among the non-Scheduled Tribe households across states and union territories.

Although the domestic air pollution has been identified as one of the most important preventable risk factors for disease burden globally and in India, only 9.5 percent Scheduled Tribe households are using clean fuel, which needs to be addressed.

7.12 Public Health Infrastructure and Human Resources for Health in Tribal Areas

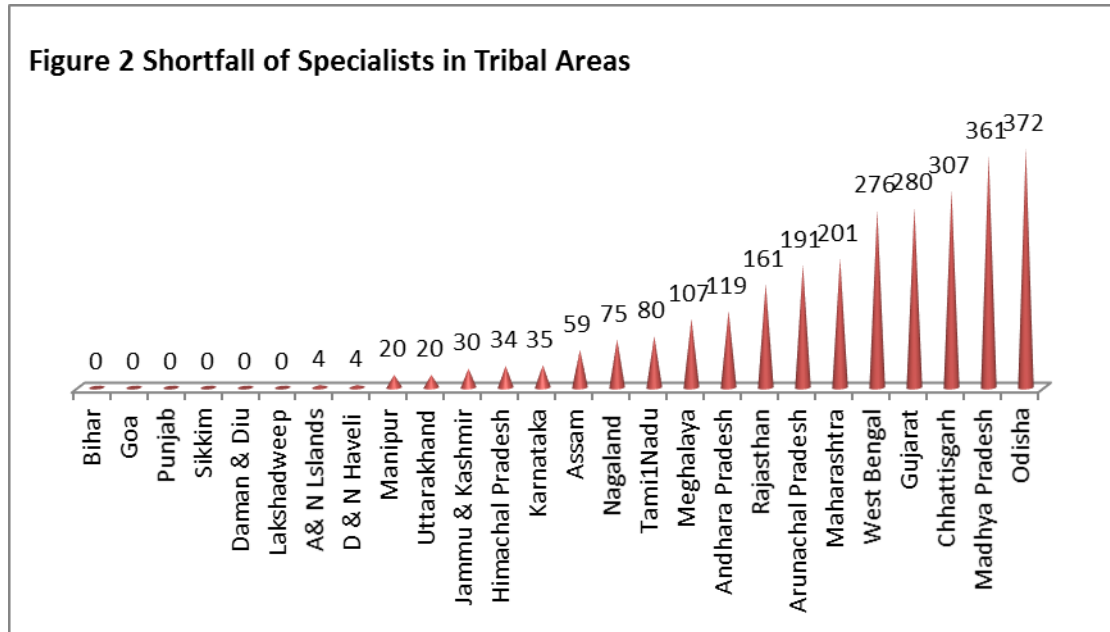
Public health care infrastructure pattern remains same for tribal areas as for the rural areas except for a lower population ratio. Thus, at the village/hamlet level is ASHA and Anganwadi, usually 1 each per 1000 population in the rural area, but at a much relaxed norm in the tribal area where these often are 1 per 300 to 500 population. One health sub centre per 3000 population in tribal areas as against per 5000 population in rural areas, and one Primary Health Centre per 20,000 in tribal against per 30,000 in rural areas. Above this level are a Community Health Centre (CHC) per block, and a district hospital per district.

The National Population Policy (2000) aimed at fulfilling unmet needs in contraception and strengthening human resources and infrastructure at primary level health facilities. The policy document also recognized tribal population as an under-served group. However, it could not achieve its goal till date as evident from the data on availability of human resources, equipment, emergency services and essential drugs required for primary health care.

Rural health statistics (2012) provided by the Health Intelligence Bureau, Ministry of Health and Family Welfare, Government of India, reported a huge shortfall of Physicians, Pediatricians, or any other specialist at community health centers (CHCs) and doctors at primary health centers (PHCs) in Tribal areas. Odisha, Madhya Pradesh, Jharkhand, West Bengal, Gujarat, Rajasthan, Andhra Pradesh, Bihar and Tamil Nadu show huge shortfall in terms of availability of Physicians. On the other hand, Maharashtra, Kerala, Andaman and Nicobar Islands, Sikkim and Manipur shows large shortfall in availability of Pediatrician. Shortfall of any kind of specialist is also high in the states like Andhra Pradesh, Jammu

Kashmir, Jharkhand, Kerala, Maharashtra, Meghalaya and Nagaland and Rajasthan (Fig. 7.16 and Table 7.15).

Figure 7.16:



Source: Rural Health Statistics, Health Intelligence Bureau, Ministry of Health and Family Welfare, Government of India, 2012

Table 7.15: Physicians, Pediatricians, and Specialists at community health centers (CHCs) in tribal areas, 2012

States/UTs	Physicians		Paediatrician		Any Specialist	
	Required	Shortfall	Required	Shortfall	Required	Shortfall
Andaman & Nicobar Islands	1	1	34	29	136	119
Andhra Pradesh	34	30	0	0	192	191
Assam	29	20	1	1	116	59
Bihar	0	0	48	47	0	0
Chhattisgarh	84	75	0	0	0	0
Dadra & Nagar Haveli	1	1	0	0	280	280
Daman & Diu	0	0	84	73	0	0
Goa	0	0	0	0	44	30
Gujarat	70	70	0	0	360	NA
Himachal Pradesh	9	9	70	70	48	NA
Jammu & Kashmir	11	5	9	8	416	361
Jharkhand	90	84	0	0	268	201
Karnataka	28	11	11	9	20	20
Kerala	12	NA	90	85	116	107
Lakshadweep	0	0	28	13	36	NA
Madhya Pradesh	104	103	12	NA	84	75
Maharashtra	67	59	104	90	540	372
Manipur	5	5	67	43	0	0
Meghalaya	29	27	5	5	200	161
Mizoram	9	NA	29	28	0	0
Nagaland	21	20	9	NA	80	80
Odisha	135	112	21	17	20	NA
Rajasthan	50	33	0	0	312	276
Sikkim	0	0	50	47	4	4
Tamil Nadu	20	20	0	0	0	0
Tripura	5	NA	20	20	4	4
Uttarakhand	8	7	5	NA	0	0
Uttar Pradesh	NA	NA	NA	NA	0	0
West Bengal	78	78	8	4	0	0

Source: Rural Health Statistics, Health Intelligence Bureau, Ministry of Health and Family Welfare, Government of India, 2012

Doctors' shortfall at PHCs level in tribal areas is huge in the states like Assam, Chhattisgarh, Gujarat, Madhya Pradesh, West Bengal and Orissa. On the contrary, Andhra Pradesh, Andaman and Nicobar Islands, Jammu and Kashmir, Karnataka, Maharashtra, Manipur, Rajasthan, Sikkim, Tamil Nadu, Tripura and Uttarakhand show surplus of doctors at PHCs level (Table 7.16) at least on paper.

Table 7.16: Doctors at PHCs in Tribal areas, 2012

States/UTs	Required	Shortfall/Surplus
Andhra Pradesh	223	*
Andaman & Nicobar Islands	4	*
Arunachal Pradesh	97	5
Assam	282	143
Bihar	6	5
Chhattisgarh	403	233
Dadra & Nagar Haveli	6	0
Daman & Diu	0	0
Goa	0	0
Gujarat	358	112
Himachal Pradesh	43	5
Haryana	43	1
Jammu & Kashmir	123	*
Jharkhand	337	12
Karnataka	131	*
Kerala	0	0
Madhya Pradesh	328	117
Maharashtra	315	*
Manipur	44	*
Meghalaya	109	5
Mizoram	51	8
Nagaland	126	27
Orissa	403	87
Punjab	0	0
Rajasthan	156	*
Sikkim	12	*
Tamil Nadu	66	*
Tripura	35	*
Uttar Pradesh	NA	NA
Uttarakhand	10	*
West Bengal	284	167

Source: Rural Health Statistics, Health Intelligence Bureau, Ministry of Health and Family Welfare, Government of India, 2012; * Surplus.

Mere availability of human resources cannot improve primary health care infrastructure. Therefore, an assessment of availability of services offered, functional establishments, emergency drugs and essential drugs is essential. Table 7.17 and Table 7.18 show the prevailing situation at CHCs and PHCs in seven Schedule V States derived from the District Level Household and Facility Survey (2013-14). In this survey, all CHCs in the country have been covered, whereas only selected sample PHCs (located in sample villages) were covered for gathering the data.

Table 7.17: Human resources, services, equipment, emergency and essential drugs availability at CHCs

States	FRU Status	Services ¹⁰⁷	Medical Officer ¹⁰⁸	Paramedic Staff ¹⁰⁹	Equip-ments ¹¹⁰	Emergency drugs ¹¹¹	Essential drugs ¹¹²	Anti Venom	No. of CHCs
Himachal Pradesh	13.0	32.5	5.2	81.8	55.8	39.0	18.2	85.7	77
Rajasthan	20.1	33.7	11.8	82.4	42.9	54.5	44.4	84.8	448
Jharkhand	6.7	26.7	6.7	63.9	42.8	33.9	38.9	47.8	180
Odisha	27.2	31.7	12.2	79.7	38.9	40.3	56.1	88.9	360
Chhattisgarh	12.4	35.8	7.4	86.4	30.3	53.7	51.2	92.6	162
Madhya Pradesh	9.0	39.5	4.6	66.8	59.1	79.6	71.4	90.2	367
Maharashtra	17.3	38.4	25.7	83.1	71.9	85.1	60.2	98.8	249

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-4), 2013-14: India. Mumbai.

The data for remaining two Schedule V States, namely Andhra Pradesh and Gujarat is not yet processed, therefore, was not placed in these tables.

It is observed that CHCs preparedness as first referral unit is quite low in all seven states. Out of four selected services, slightly more than one-third of CHCs, except Odisha and Jharkhand, provides all these four essential services. The availability of medical officers (at least one MO, one Pediatrician, and one Obstetrician/Gynecologist) is also minimal. While indicators such as availability of paramedic staff and anti-venom drugs are positive, efforts need to be stepped up to ensure availability of equipment and essential drugs. The situation in Maharashtra is much better as compared to other states, whereas Jharkhand fares poorly in terms of availability of any of the equipment or drugs (Table 7.17).

In case of primary health care centers, more or less similar components of assessment have been taken into account (Fig 7.17 and Table 7.18). Availability of all paramedic staff required is quite worrisome in almost all the states. Similarly, the availability of labour room, functional OT and new born care corner is found to be dismal in all the

¹⁰⁷ Services include administration of parental oxytocin and antibiotics, management of post-partum hemorrhages and new born care services.

¹⁰⁸ Medical Officer (regular/contract) includes at least one of medical officer (general physician), at least one Pediatrician and at least one Obstetrician /Gynecologist.

¹⁰⁹ Paramedic Staff includes at least one Public Health Nurse (PHN)/ Auxiliary Nurse Midwife (ANM)/ Staff Nurse/ Nurse/ Midwife/ Dresser and at least one Pharmacist/ Compounder and at least one Lab. Technician.

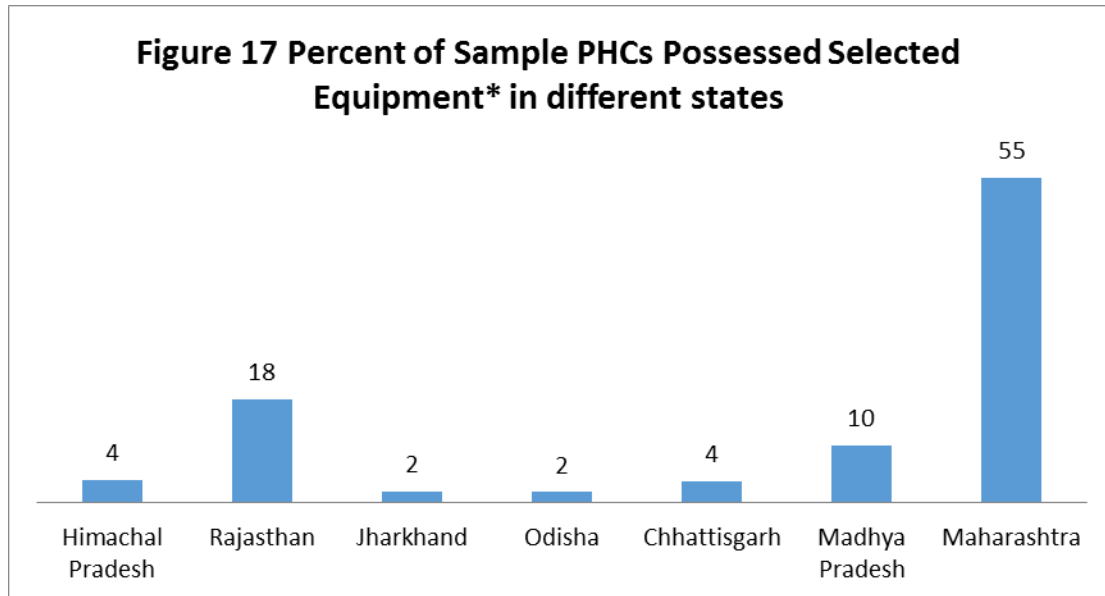
¹¹⁰ Equipments include availability of one Labour table with McIntosh sheet, one Suction machine, one surgical set for Episiotomy and minor procedures, one Ambu bag with mask, one Radiant warmer, ILR (large/small) and one Deep freezer (large/small).

¹¹¹ Emergency Drugs include availability of Oxytocin injection, Diazepam Injection, Magnesium Sulphate Injection, Lignocaine Hydrochloride Injection, and Nifedipine Tablet on the day of survey.

¹¹² Essential drugs include availability of Anti-allergic and drugs used in Anaphylaxis, Anti Tubercular, Anti Leprosy, Anti Bacterials, Anti Helminthic, Essential Obstetric Care drugs, and Anti Protozoal on the day of survey.

selected states, except in Maharashtra. Jharkhand and Himachal Pradesh need to improve on most of the components. More than 50 percent surveyed PHCs did not even have anti-venom drugs in Jharkhand.

Figure 7.17:



*Note: *Equipment include one Suction machine, one autoclave sterilizer, one Surgical set for Episiotomy and minor procedures, one normal delivery kit and one Ambu bag with mask, one Radiant warmer, any other baby warm mechanism, ILR (large/small) and one Deep freezer (large/small).*

Table 7.18: Human resources, services, equipment, emergency and essential drugs availability at sampled PHCs

States	24X7 Status	Services ¹¹³	MO ¹¹⁴	Paramedics ¹¹⁵	Establishments ¹¹⁶	Emergency drugs ¹¹⁷	Essential drugs ¹¹⁸	Anti Venom	Sampled PHCs
Himachal Pradesh	11.1	3.9	92.8	11.8	7.2	3.9	11.1	49.0	153
Rajasthan	10.9	23.7	90.0	1.4	14.0	19.3	25.4	56.1	722
Jharkhand	36.4	1.8	72.7	9.1	5.5	9.1	3.6	10.9	55
Odisha	8.7	1.2	93.8	1.9	3.4	4.2	11.7	31.8	566
Chhattisgarh	22.9	18.1	72.9	15.6	11.0	18.8	28.8	25.9	410
Madhya Pradesh	19.6	14.3	70.4	4.8	20.7	41.1	21.9	43.9	560
Maharashtra	34.7	46.1	99.4	20.3	78.0	30.3	78.9	97.6	778

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-4), 2013-14: India. Mumbai.

7.13 Treatment Seeking Behaviour

Majority of Scheduled Tribe population depends on the public health system, as private providers do not have any interest to work in the tribal dominated areas. Therefore, improving the existing public health system becomes all the more important in that case. More than three-fourths of Scheduled Tribe population seeks treatment from Government funded health facilities, as compared to only 47 percent of Non-Scheduled Tribes. One-fifth of Scheduled Tribes seeks health care services from private sources (Table 7.19). But the majority of Scheduled Tribes sought treatment from public sources. Therefore, public health system needs to be improved as its efficiency can directly affect health of tribes.

¹¹³ Services include administration of parental oxytocis and antibiotics, management of post-partum hemorrhages, resuscitation, thermal protection and laboratory services.

¹¹⁴ Medical Officer (regular/contract) includes at least one of medical officer (Male/Female/Ayush).

¹¹⁵ Paramedic Staff includes at least one Public Staff Nurse, at least one Pharmacist and at least one Lab. Technician.

¹¹⁶ Establishments include OT, Labour room and Newborn care corner

¹¹⁷ Emergency Drugs include availability of Oxytocin injection, Diazepam Injection, Magnesium Sulphate Injection, Lignocaine Hydrochloride Injection, Nifedipine Tablet and Misoprostol Tablet on the day of survey.

¹¹⁸ Essential drugs include availability of Anti-allergic and drugs used in Anaphylaxis, Anti Tubercular, Anti Leprosy, Anti Bacterials, and Anti Helminthic on the day of survey.

Table 7.19: Sources of treatment seeking among Scheduled Tribes and Non-Scheduled Tribes

States/UTs	Scheduled Tribes			Non-Scheduled Tribes		
	Public	Private	Others/ NGOs	Public	Private	Others / NGOs
Jammu & Kashmir	94.8	4.3	0.9	81.2	18.3	0.4
Himachal Pradesh	95.8	4.0	0.3	85.7	13.9	0.4
Uttarakhand	72.9	26.4	0.7	67.5	31.1	1.4
Rajasthan	87.2	11.8	0.9	79.0	19.5	1.6
Uttar Pradesh	26.5	70.4	3.1	22.5	73.0	4.5
Bihar	11.5	66.9	21.6	10.2	71.5	18.3
Sikkim	95.2	3.8	1.0	93.7	6.0	0.3
Arunachal Pradesh	96.5	2.5	1.0	94.4	5.0	0.6
Manipur	92.9	5.6	1.6	88.7	10.2	1.1
Mizoram	95.1	3.2	1.7	93.1	4.6	2.3
Tripura	91.6	7.8	0.5	82.3	16.8	0.9
Meghalaya	79.7	15.5	4.8	74.9	20.7	4.3
Assam	88.1	6.8	5.0	79.5	17.9	2.5
West Bengal	57.6	19.4	23.0	44.6	27.5	28.0
Jharkhand	34.6	60.2	5.1	34.1	62.9	2.9
Odisha	92.9	6.3	0.9	88.3	10.6	1.1
Chhattisgarh	72.7	22.6	4.7	50.1	46.5	3.4
Madhya Pradesh	59.9	38.8	1.2	49.3	49.6	1.1
Gujarat	71.4	28.0	0.6	45.9	52.9	1.3
Daman & Diu	64.5	35.4	0.2	50.5	49.0	0.5
Dadra & Nagar Haveli	91.8	7.4	0.8	60.5	37.9	1.5
Maharashtra	53.9	45.4	0.7	36.9	62.6	0.5
Andhra Pradesh	71.6	26.1	2.3	41.3	55.5	3.2
Karnataka	47.2	51.8	1.0	41.0	58.1	0.9
Goa	52.1	47.9	0.0	43.1	56.3	0.6
Lakshadweep	99.9	0.1	0.0	96.4	3.6	0.0
Kerala	89.8	9.5	0.6	60.4	39.1	0.5
Tamil Nadu	77.3	17.9	4.8	63.5	35.8	0.7
Andaman & Nicobar Islands	89.4	10.6	0.0	96.7	3.0	0.3
India	77.3	20.2	2.6	47.7	47.2	5.1

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

Table 7.19 shows that utilization of public health system is low in states such as Bihar (12 percent), Uttar Pradesh (27 percent), Jharkhand (35 percent) and Karnataka (47 percent). It is observed from the data (Table 7.20) that popularity of traditional healers for seeking health care services is still quite high in the Eastern region.

Table 7.20: Households seeking health care from traditional healers in India

States/UTs	Less than 1 percent	1-10 percent	10-25 Percent	25 and above Percent
Jammu and Kashmir	-	3	-	6
Himachal Pradesh	1	-	1	2
Uttarakhand	-	-	-	1
Rajasthan	4	-	3	17
Uttar Pradesh	19	-	2	9
Bihar	10	-	3	16
Arunachal Pradesh	2	2	7	5
Manipur	3	4	1	-
Mizoram	1	7	-	-
Tripura	1		1	2
Meghalaya	-	-	-	7
Assam	1	1	3	19
West Bengal	2		1	12
Jharkhand	-	-	-	22
Odisha	1		3	22
Chhattisgarh	-	-	4	11
Madhya Pradesh	17	4	4	20
Gujarat	9	4	6	3
Daman & Diu	1	-	1	-
Dadra & Nagar Haveli	-	-	1	-
Maharashtra	14	2	9	6
Andhra Pradesh	14		2	3
Karnataka	13	1	3	8
Goa	2	-	-	-
Lakshadweep	1	-	-	-
Kerala	3	1	-	-
Tamil Nadu	12	-	-	-
Andaman & Nicobar Islands	2	-	-	-
India	133	29	55	191

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

7.14 Maternal and Child Health Care Program Coverage

7.14.1 Maternal Care

The following tables (Table 7.21 and 7.22) present data on access to maternal care by Scheduled Tribes and Non-Scheduled Tribes. The Full Antenatal Care¹¹⁹ and institutional delivery are considered to be key to reduce maternal mortality. It may be

¹¹⁹ Minimum of three ANC check-ups, at least one TT injection and 100 IFA tablets are defined as "Full Antenatal Care."

noted that the coverage among Scheduled Tribes is very poor (of course, it is linked with state overall performance). There is urgent need to increase the coverage of antenatal care. Data from the latest AHS and DLHS-4 will better indicate the impact of Janani Suraksha Yojana and Janani Shishu Swasthya Karyakram under National Rural Health Mission.

Figure 7.18:

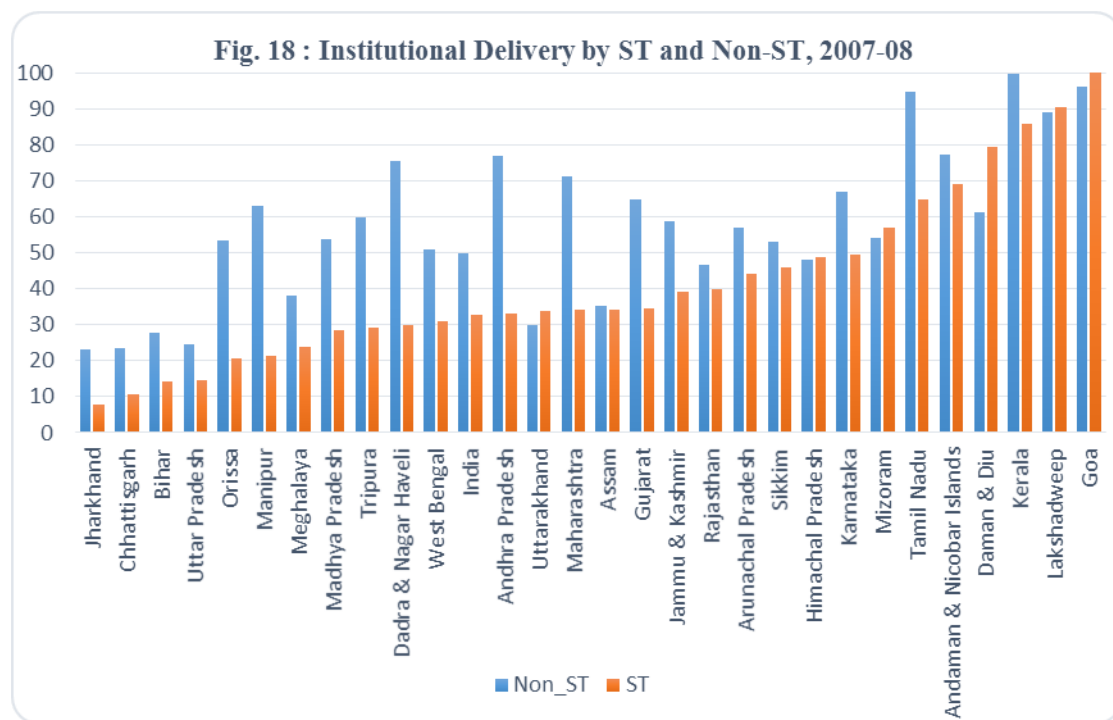


Table 7.21: Full Antenatal check-up in ever-married women aged 15-49, by state

States/UTs	Scheduled Tribes		Non-Scheduled Tribes	
	Percentage	Sample	Percentage	Sample
Jammu & Kashmir	12.9	1046	33.1	4192
Himachal Pradesh	34.6	294	30.8	2300
Uttarakhand	9.3	94	15.7	4061
Rajasthan	4.1	2116	7.0	10457
Uttar Pradesh	1.6	598	3.3	37612
Bihar	2.1	482	4.6	21151
Sikkim	26.3	706	27.9	744
Arunachal Pradesh	4.7	2540	7.8	716
Manipur	4.3	1886	21.4	1700
Mizoram	33.0	2875	21.9	84
Tripura	6.4	704	18.7	849
Meghalaya	14.2	2923	18.9	223
Assam	6.2	2229	9.2	7881
West Bengal	15.4	560	19.8	5968
Jharkhand	6.2	4118	10.6	7356
Orissa	14.6	2241	26.7	5547
Chhattisgarh	10.9	2647	15.6	3586
Madhya Pradesh	3.9	4402	10.3	11709
Gujarat	11.4	2193	23.2	5410
Daman & Diu	38.7	94	44.6	539
Dadra & Nagar Haveli	20.1	247	29.2	116
Maharashtra	31.7	2178	34.3	8251
Andhra Pradesh	26.9	632	42.4	4549
Karnataka	39.9	813	52.2	6926
Goa	86.1	36	91.4	371
Lakshadweep	67.5	466	100.0	9
Kerala	56.3	71	72.6	3264
Tamil Nadu	41.2	121	52.1	6440
Andaman & Nicobar Islands	25.0	29	49.4	469
India	14.8	39341	19.6	178635

Note: # Women who had their last live/still birth from 01-01-2004. Full antenatal check up: at least three visits from antenatal check-up, at least one TT injection received and 100+IFA tablets/syrup consumed.

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

Table 7.22: Institutional delivery in ever-married women aged 15-49#, by state

States/UTs	Scheduled Tribes		Non-Scheduled Tribes	
	Percentage	Sample	Percentage	Sample
Jammu & Kashmir	39.3	1046	58.8	4192
Himachal Pradesh	48.6	294	48.2	2300
Uttarakhand	33.7	94	29.7	4061
Rajasthan	39.9	2116	46.5	10457
Uttar Pradesh	14.4	598	24.6	37612
Bihar	14.3	482	27.8	21151
Sikkim	45.8	706	53.0	744
Arunachal Pradesh	44.3	2540	57.1	716
Manipur	21.5	1886	63.0	1700
Mizoram	57.0	2875	54.2	84
Tripura	29.2	704	59.8	849
Meghalaya	23.8	2923	38.3	223
Assam	34.2	2229	35.1	7881
West Bengal	30.9	560	50.8	5968
Jharkhand	7.9	4118	23.0	7356
Orissa	20.7	2241	53.2	5547
Chhattisgarh	10.6	2647	23.4	3586
Madhya Pradesh	28.4	4402	53.8	11709
Gujarat	34.4	2193	64.9	5410
Daman & Diu	79.6	94	61.2	539
Dadra & Nagar Haveli	29.9	247	75.4	116
Maharashtra	34.1	2178	71.3	8251
Andhra Pradesh	32.9	632	76.7	4549
Karnataka	49.5	813	66.7	6926
Goa	100.0	36	95.9	371
Lakshadweep	90.6	466	88.9	9
Kerala	85.9	71	99.6	3264
Tamil Nadu	64.7	121	94.6	6440
Andaman & Nicobar Islands	68.9	29	77.2	469
India	32.8	39423	49.8	178635

Note: # Women who had their last live/still birth from 01-01-2004. Percentage is weighed and sample size is un-weighted.

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

The most important observation from the data is the gap between Scheduled Tribes and Non-Scheduled Tribes. Figure 7.18 indicates the gap in institutional delivery. With some exceptions, there appear to be fewer gaps in Couple Protection Rate (CPR).

However, a large gap is observed in institutional delivery and this may be due to access issues (social and economic). A thorough understanding of the barriers is needed in order to address the issues.

7.14.2 Child Health Care

Tables 7.23 through 7.25 present data on utilization of services related to children. Table 7.23 indicates the coverage under new born care, which is important to reduce IMR and child mortality. For India, (Table 7.23), it is noted that the coverage of newborn care is about 34 percent for Scheduled Tribe children, whereas it is slightly above 50 percent among Non-Scheduled Tribe children. The condition in rural areas is much worse, but even in urban areas, newborn check-up is not universal.

Table 7.23: Newborns who received check-up within 24 hours of birth (percent)

States/UTs	Rural		Urban		Total	
	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes	Scheduled Tribes	Non-Scheduled Tribes
Jammu & Kashmir	37.9	53.6	61.4	84.3	40.0	59.9
Himachal Pradesh	49.6	48.0	72.7	68.6	50.4	51.1
Uttarakhand	30.2	26.1	28.0	57.3	29.9	32.3
Rajasthan	33.6	34.0	40.3	58.2	34.0	41.7
Uttar Pradesh	20.6	29.4	43.0	49.9	23.7	34.5
Bihar	12.2	24.5	44.9	42.3	15.4	27.4
Sikkim	38.8	47.4	88.0	74.0	39.9	49.1
Arunachal Pradesh	35.0	42.7	46.9	54.8	37.2	47.9
Manipur	23.0	54.4	36.2	76.1	23.3	64.4
Mizoram	36.5	30.6	68.5	84.1	49.2	44.6
Tripura	14.4	29.1	0.0	44.6	14.3	32.0
Meghalaya	22.7	29.4	55.3	70.7	26.3	42.9
Assam	28.0	27.3	54.9	61.9	30.5	33.1
West Bengal	31.3	52.5	48.4	78.4	32.5	58.1
Jharkhand	17.0	32.7	45.2	60.9	18.6	38.3
Orissa	15.8	34.5	30.8	45.8	16.8	36.9
Chhattisgarh	28.1	43.1	52.8	64.3	29.9	50.0
Madhya Pradesh	24.6	36.2	52.8	59.6	26.7	44.8
Gujarat	36.6	59.7	72.2	81.8	39.1	67.6
Daman & Diu	88.1	80.9	87.3	84.5	87.8	82.9
Dadra & Nagar Haveli	41.6	58.6	69.2	89.6	42.4	70.2
Maharashtra	54.1	75.9	82.6	89.5	56.8	80.9
Andhra Pradesh	39.2	76.8	73.7	86.2	43.9	81.0
Karnataka	47.7	64.6	77.6	80.5	54.6	70.4
Goa	100.0	97.6	100.0	95.3	100.0	95.9
Lakshadweep	92.1	75.0	96.5	100.0	94.6	89.5
Kerala	85.0	99.5	100.0	99.2	86.0	99.4
Tamil Nadu	68.2	83.0	91.2	91.5	71.7	87.1
Andaman & Nicobar Islands	65.7	74.4	89.5	82.6	74.1	76.5
India	30.4	43.0	63.0	69.8	34.4	51.4

Source: International Institute for Population Sciences (IIPS). District Level Household and Facility Survey, (DLHS-3), 2007-08: India. Mumbai.

Table 7.24 shows the extent of exclusive breast feeding. However, it may be observed that Scheduled Tribes have higher level of exclusive breast feeding as compared to Non-Scheduled Tribes. State level sample is small in most of the cases.

Table 7.24: Percentage of children aged 0-5 months who received exclusive breast feeding

States/UTs	Scheduled Tribes		Non-Scheduled Tribes	
	Percentage	Sample	Percentage	Sample
Jammu & Kashmir	66.7	189	72.3	614
Himachal Pradesh	65.1	43	57.7	352
Uttarakhand	--	16	51.1	572
Rajasthan	--	394	64.9	1947
Uttar Pradesh	67.4	102	18.9	6141
Bihar	27.5	78	37.8	3657
Sikkim	53.9	67	47.5	79
Arunachal Pradesh	31.3	269	54.7	77
Manipur	50.4	292	73.1	194
Mizoram	67.9	411	63.6	11
Tripura	55.5	122	33.0	91
Meghalaya	42.6	493	50.0	24
Assam	47.8	310	62.6	1082
West Bengal	79.7	80	42.3	806
Jharkhand	51.3	703	72.7	1217
Orissa	79.3	354	47.9	769
Chhattisgarh	65.5	387	76.7	552
Madhya Pradesh	78.8	865	49.0	2034
Gujarat	56.0	347	37.8	723
Daman & Diu	50.4	21	39.7	63
Dadra & Nagar Haveli	66.7	38	13.3	15
Maharashtra	63.2	333	51.8	1096
Andhra Pradesh	58.8	90	42.7	662
Karnataka	47.8	106	66.8	846
Goa	80.0	2	39.3	28
Lakshadweep	100.0	53	--	--
Kerala	73.6	10	67.9	439
Tamil Nadu	80.0	17	63.4	884
A & N Islands	58.8	4	54.6	98
India	61.1	6207	43.3	27099

Note: Table based on youngest living child born since 01.01.2004. Percentage is weighed and sample size is un-weighted.

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

In Table 7.25, coverage of children for immunization is presented. In India, there is gap of 10 per cent points between Scheduled Tribes and non-Scheduled Tribes (46 percent versus 55 percent). There are variations across states, but one observation is the coverage is very much dependent on overall performance of the states, as far as MCH services are concerned.

Table 7.25: Percentage of children aged 12-23 months who received full immunization# by state

States/UTs	Scheduled Tribes		Non-Scheduled Tribes	
	Percentage	Sample	Percentage	Sample
Jammu & Kashmir	56.6	296	63.5	1226
Himachal Pradesh	78.8	80	82.6	698
Uttarakhand	32.3	30	63.6	1315
Rajasthan	50.9	610	48.3	3011
Uttar Pradesh	20.8	174	30.3	11967
Bihar	29.0	162	41.7	6881
Sikkim	75.3	186	77.9	217
Arunachal Pradesh	15.2	489	7.05	156
Manipur	35.6	478	59.2	480
Mizoram	54.6	749	36.4	22
Tripura	17.2	187	54.9	230
Meghalaya	32.5	830	40.0	62
Assam	48.2	621	51.4	2210
West Bengal	81.3	177	75.1	1676
Jharkhand	51.5	1130	55.3	2288
Orissa	44.5	683	69.4	1703
Chhattisgarh	55.3	789	62.2	1084
Madhya Pradesh	24.6	1287	40.1	3544
Gujarat	44.3	693	59.1	1702
Daman & Diu	93.6	31	84.1	156
Dadra & Nagar Haveli	47.8	71	79.4	37
Maharashtra	52.2	702	73.8	2445
Andhra Pradesh	49.2	177	68.9	1372
Karnataka	72.3	238	77.2	2100
Goa	100.0	11	88.6	104
Lakshadweep	86.1	117	100.0	3
Kerala	84.6	13	79.5	908
Tamil Nadu	63.6	33	81.9	1988
A & N Islands	85.7	7	83.5	104
India	45.5	11076	55.0	52826

Note: Table based on youngest living child born since 01.01.2004.

BCG, three injections of DPT, three doses of Polio (excluding Polio 0) and measles. Percentage is weighed and sample size is un-weighted.

Source: International Institute for Population Sciences (IIPS). District Level Household and facility Survey, (DLHS-3), 2007-08: India. Mumbai.

7.15 Conclusions

Examination of the available facts about health of Scheduled Tribe population in India reveals that:

1. **Population size:** Total fertility rate in Scheduled Tribe population, though reduced to 3.12, is still above the replacement level.¹²⁰ During 2001 to 2011, the Scheduled Tribes population in India has annually increased by 2.12 percent, constituting 8.6 percent of the total population of India in 2011, amounting to about 10 crores in absolute number.¹²¹ Health of the ten crores vulnerable people should become an important national concern. At the same time negative Scheduled Tribe population growth in Nagaland and in the Great Andamanese tribe in Andaman & Nicobar is a concern.¹²²
2. **The mortality indicators** of Scheduled Tribe population have certainly improved during the past decades. However, these are significantly worse than of the general population. A comparison on a few important child mortality indicators is as follows:

	Indicators	ST	Other	% diff.
1.	Infant Mortality Rate	62	49	27%
2.	Under Five Year Child Mortality Rate	96	59	39%

The infant and child mortality rates (most likely to be underestimates) in the Scheduled Tribes have shown improvement but slower than in the total population,¹²³ with the result that these rates in Scheduled Tribes are higher by about one third than in the other population. Moreover, these show a huge variation between the states, and are particularly high in 7 states.

3. The **life expectancy** at birth in the Scheduled Tribe population was 61 years, several years less than in the general population in 2001.¹²⁴ It is a commentary on the national data systems that updated information on life expectancy in tribal population is not available.

¹²⁰ National Family Health Survey, (NFHS) 2005-6.

¹²¹ Census of India, 2011.

¹²² Census of India 2001 and 2011.

¹²³ NFHS1 (1992-93) and NFHS2 (1998-99).

¹²⁴ Census of India, 2001.

4. **The nutritional status** of Scheduled Tribe children as well as of adults reveals a sad picture.¹²⁵
- i) 53 percent boys and 50 percent girls in preschool age were underweight, and 57 percent boys and 52 percent girls were stunted in height.
 - ii) 49 percent of Scheduled Tribe women had a body mass index less than 18.5 indicating chronic energy deficiency.
 - iii) 40.2 percent of Scheduled Tribe men had a body mass index of less than 18.5 including chronic energy deficiency.
 - iv) Dietary intake of tribal households showed large deficiencies in protein, energy, fats, iron, calcium, vitamin A and riboflavin.

The under-nutrition in children and adults in Scheduled Tribe population has certainly decreased over a time period (from 1985-87 to 2007-08), yet the present levels of deficient food intake and under-nutrition are unacceptably high, almost always higher than in the non ST counterparts.

5. **The diseases** prevalent in tribal areas can be broadly classified into following categories.
- Malnutrition – Low birth weight, under-nutrition of children, lower body size of adults, anemia, iron and vitamin A and B deficiency.
 - Maternal and child health problems – higher IMR, <5MR, neonatal mortality, acute respiratory infections, diarrhea,
 - Communicable diseases – malaria, filaria, tuberculosis, leprosy, skin infections, sexually transmitted diseases, HIV, typhoid, cholera, diarrheal diseases, hepatitis, viral fevers etc.
 - Accidents and injuries – including the burns, falls, animal bites, snake bites, violence due to conflicts, and more recently motor cycle accidents.
 - Addictions – especially to alcohol and tobacco generally and to drugs in the North East region.
 - Hereditary diseases such as the Hemoglobinopathies (Sickle Cell) and G-6 PD deficiency.
 - Mental health problems – especially in the areas affected by conflicts.
 - Speciality problems – especially the orthopedic and surgical problems, gynecological problems, oro-dental problems and eye problems.
 - Non-communicable illnesses – Hypertension, stroke, diabetes, cancers.

Generally, we may conclude, that Scheduled Tribes in India suffer predominantly from A) the diseases of underdevelopment (malnutrition,

¹²⁵ National Nutrition Monitoring Bureau, Technical Report 25, 2009.

communicable diseases, maternal and child health problems), B) Diseases particularly common in Scheduled Tribes population (Sickle cell disease, animal bites, accidents) and C) Diseases of modernity (Hypertension, addiction, mental stress).

6. The **social determinants** of health are heavily pitted against the health of the Scheduled Tribe population. For example, the following differences are noted among Scheduled Tribes in comparison to the general population.

Indicators	Scheduled Tribes	Non-Scheduled Tribes
Illiteracy ¹²⁶	41	31
Occupation ratio primary to tertiary sector	9:2	3 : 2
Tap water supply at home ¹²⁷	10.7	28.5
Toilet facility at home	17.4	44.3
Smoke free fuel (gas)	9.5	31.1

7. The **sex ratio** (number of females per 1000 males) in ST population at 990 as compared to 938 in non-Scheduled Tribes stands out as the best in India (2011). That speaks about an egalitarian social norm towards women. Unfortunately, with the exposure to the outside world, the sex ratio in tribal population is recently showing a decline.
8. Tribal people carry a traditional worldview with large number of **beliefs and practices** which affect their health, sometimes favorably, but sometimes unfavorably. There exists a severe gap of scientific knowledge about why diseases are caused and how to prevent them. This offers a great opportunity for improvement by way of spreading health literacy.
9. Tribal cultures have carried a heritage of **traditional healing methods** through the use of medicinal herbs, which address both mind and body. These traditional beliefs and methods are different from the modern scientific worldview and emerge from their living in forests rich with medicinal plants. This belief and healing system has a strong influence on the health practices and health seeking behavior and choices of tribal people. In order to study these systems in a holistic manner, there is a need to distinguish harmful and beneficial practices.

¹²⁶ National Sample Survey, 68th round.

¹²⁷ Census of India, 2011.

10. **Public Health Service** to Scheduled Tribe population is one of the weakest links. It suffers from several handicaps.

- i) It is often **inappropriate** for the needs in the Scheduled Areas, being a rubber stamp version of the national model primarily designed for the non-tribal areas. It does not take into account the different belief system, different disease burden and health care needs as well as the difficulties in delivering health care in a geographically scattered, culturally different population surrounded by forests and other natural forces. *It is surprising that no serious thought was earlier given to design a public health care plan for Scheduled Areas.*
- ii) The other major difficulty in delivering public health care to tribal population is the **lack of health care human resource that is willing, trained and equipped to work in Scheduled Areas.** There is a shortage, – vacancy, absenteeism or half-heartedness of doctors, nurses, technicians and managers in public health care system in Scheduled Areas.
- iii) Though buildings are built and health care institutions created in the form of health sub-centers, PHCs and CHCs, they often remain **dysfunctional** resulting in poor delivery of health care. This is further compounded by inadequate monitoring, poor quality of reporting, and accountability.
- iv) Factors such as unfriendly behavior of the staff, language barrier, large distances, poor transport, low literacy and low health care seeking, lead to **lower utilization** of the existing health care institutions in Scheduled Areas.
- v) Access to **hospital care** for all ailments remains very low in tribal areas.

Thus, the public health care system in Scheduled Areas is characterized by low output, low quality and low outcome delivery system often targeting wrong priorities. Restructuring and strengthening this should be one of the highest priorities for the Ministries of Health and Family Welfare in states and at the Centre.

11. A reason for the inappropriately designed and poorly managed health care in Scheduled Areas is the near complete **absence of participation** of Scheduled Tribes people or their representatives in shaping policies, making plans or implementing services in the health sector. This is true from the village level to the national level. Even though the PESA gives Gram Sabhas the right and the role of influencing social sector schemes, which include health, there are no mechanisms in place for such participation or oversight at the village level. Similar situation is observed at the ITDP, district and the state levels. At the Central level, the Ministry of Health and Family Welfare has no separate body to shape policies or monitor programs in Scheduled Areas. This is in complete disregard to the promise of the Constitution and the Panchsheel guidelines.

12. In addition to the various weaknesses listed above, there is a common perception and complaint that **funds** for health care in tribal areas are underutilized, diverted to other areas, or utilized inefficiently, and worst, siphoned off by way of corruption.
13. Coverage with **medical insurance** including the Rashtriya Swasthya Bima Yojana (RSBY) remains extremely low in the Scheduled Areas. Thus the Scheduled Tribes populations are almost completely without financial protection against acute and catastrophic illnesses.
14. From the pre-independence period to the present day, **voluntary organizations** including the missionary or religious or the non-government organizations (NGOs), have made laudable attempts to provide health care to tribal people. They have often reached out to underserved areas or pioneered better ways of delivering health care. However, such efforts remain localized and predominantly curative.
15. There is a near complete absence of basic **data** required to make situational diagnosis of health and health care in Scheduled Areas. The Sample Registration System, the NFHS, DLHS, AHS, NSSO – none are designed to give reliable, robust, timely and segregated estimates of health outcomes in Scheduled Tribes populations. Such data are completely subsumed in the data for the whole population making any assessment of the health of Scheduled Tribes populations very difficult if not impossible. In the absence of such quantitative estimates, the evidence-based insights and professionally sound efforts for correction have been missing.

7.16 Recommendations

1. **The first principle of any policy or program for tribal people is participation.** Tribal people as a population segment are not politically very vocal. However, they have different geographical, social, economic and cultural environments, different kind of health cultures and health care needs. Hence their views and priorities must get due place in any health care program, meant for them. We suggest making use of three types of existing institutional mechanisms to improve the programs.
 - **Tribal Health Assembly:** From the Gram Sabhas at village level, upto the national level, Tribal Health Assemblies should be annually organized in which the people (at the level of village) or their representatives (at the higher levels) participate. For instance, such a ‘Tribal Health Assembly’ is

annually organized for the past 15 years by an NGO, SEARCH, in Gadchiroli district (Maharashtra) for three purposes, a) to listen to the health problems and priorities of the people, b) to get approval for the proposed health solutions and activities, c) to get their feedback on ongoing activities. This can serve as a model at the local level in other Scheduled Areas. At least one Gram Sabha meeting annually should be exclusively dedicated to the purpose of health and related subjects.

- **Tribal Health Councils:** These should be constituted by including elected representatives, NGOs, experts and government officers for the purpose of planning and monitoring of programs. Such councils should be constituted at the block or ITDP level, district, state and national level. These should be empowered to shape the health plans and monitor implementation. These sub-committees of Panchayat level, district level and Zilla Parishad could function as Tribal Health Councils.
 - **Tribes Advisory Councils** at the state level: These Councils should approve the health plans prepared by the Tribal Health Councils, and to review the performance of implementation.
2. In view of the enormous diversity among nearly 700 tribes in India, the second principle to be followed is of **area specific and tribe-sensitive local planning**. The PESA provides an institutional basis for this. The three institutional mechanisms suggested above, when created and made operational at the block, district and state level, will allow local planning.
3. **Social determinants of health** – literacy, income, water, sanitation, fuel, food security and dietary diversity, gender sensitivity, transport and connectivity – play very important role in determining the health outcomes. Hence, inter-sectoral coordination for improvement in other sectors is as important, if not more, as health care. Some specific suggestions for improving health are:
- The construction of drainage system, village sanitation infrastructure, personal toilets and the environmental measures to control mosquito-breeding can be included in the MGNREGA scheme and completed on priority basis in Scheduled Areas.
 - To reduce the household use of unclean fuels and biomass burning, the solar energy, especially the solar cooker, water heaters and lights be promoted in Scheduled Areas. This will also help save trees.
 - Improving nutrition of children, adolescents and pregnant and lactating women is critical for the Scheduled Tribes population. The nutrition awareness and feeding programs in the Scheduled Areas can be better implemented in collaboration with the National Rural Livelihood Mission and the women's saving groups in the villages.
 - Health and income available for family will show improvement by controlling alcohol and tobacco.

4. **Empowerment** of the Scheduled Tribe people is another cardinal principle. Building their capabilities to care for their health is the long term solution far superior to a perpetual dependence. This however does not mean that the government or the rest of the society can abdicate their responsibility towards tribal people. But this responsibility can be better served in long run by building local capacity. In other words, instead of ‘giving’ health care, the policy should be to build ‘capacity to care for health’. This principle should guide in planning health care – especially in the choice of who will provide health care, where, when and how.
5. To bridge the scientific knowledge gap of centuries, health care for Scheduled Areas should give paramount importance to spreading ‘**health literacy**’ by way of mass educational methods, folk media, modern media and school curriculum. Enormous scope exists for communication in local dialects and for the use of technology.
6. A large number of Scheduled Tribe children and youth – more than one crore – are currently in **schools**. This provides a great opportunity – both for improving their health and for imparting health related knowledge and practices. Schools, including the primary schools, middle schools, high schools, ashram shalas and also the Anganwadis should become **the Primary Health Knowledge Centers**.
7. Special attention should be given to women, children, old and disabled people in the Scheduled Tribe population as these are **the most vulnerable**.
8. **Traditional healers and Dais** play an important role in the indigenous health care. Instead of alienating or rejecting them, a sensitive way of including them or getting their cooperation in health care, must be explored. Traditional herbal medicines should be protected through community ownership. The ownership and intellectual property rights of tribal community over their own herbal medicines and practices should be ensured.
9. Apart from the physical distance, a huge **cultural distance** separates the tribal population from others. Health care delivery to the Scheduled Tribe population should be culture-sensitive and in the local language in order to overcome this distance.
10. **Health care delivery system** for Scheduled Areas must keep as its guiding principle the Chinese axiom – How far can a mother walk on foot with a sick baby? Health care must be available within that distance. This, for the tribal communities living in forests, means health care must be available in their village/hamlet. *Sixty years of failure should teach us that health care from outside is not a feasible solution. The design of health care in Scheduled Areas should be such that major share of health promotion and prevention and a sizable*

proportion of curative care is generated and provided within the village or hamlet.

11. In light of these principles and in view of the common disease pattern and needs listed earlier in the conclusions section, **we recommend that the Ministry of Health and Family Welfare should redesign the primary and secondary health care services in Scheduled Areas.** The new pattern should not be enforced as a top-down, vertical, uniform national program, but should provide a framework for local planning with local participation. Thus, the ‘**Tribal Health Plan**’ will have three features: one, a **process** framework about ‘how’ to prepare the local plan, which will be in the form of guidelines on mechanisms; second, a series of locally developed need-based **contents** of the plan and third, a design or **structure** of the health care system to deliver such services in all Scheduled Areas. This ‘Tribal Health Plan’ should become an essential feature of the National Health Mission and of the Tribal Sub Plan. The goals and monitoring indicators of this plan will be different than the regular MIS of the NHM.
12. **Human Resource for Health:** The well-known difficulties in deploying doctors, nurses and other technical personnel from outside into Scheduled Areas have made the problem of human resources the Achilles’ heel of health care in Scheduled Areas. We recommend that, instead of making futile efforts to import unwilling and unstable personnel from outside, the most feasible and effective long term solution will be to select, train and deploy local Scheduled Tribe candidates. This should be done at the following levels:
 - The Accredited Social Health Activists (ASHAs) and Anganwadi workers – from the same village or the hamlet.
 - The ANMs and paramedic workers – from the same block.
 - The doctors and public health program managers – to a large extent, from the same district.

The candidates must be local, belong to Scheduled Tribes, be fluent in local tribal dialects, be selected on merit and should be committed to serve in the local Scheduled Area for at least ten years.

The ASHA workers, Anganwadi workers and ANMs will continue to be the mainstay of health care in rural and tribal areas. Due to the physical isolation of tribal communities, compounded by a lack of doctors, it will be pragmatic to train, equip and empower the three ‘As’ – ASHA workers, Anganwadi workers and ANMs – in tribal areas to a higher level.

Since the selection for medical education is through a statewide and all India competitive process, the local Scheduled Tribe candidates may not get selected. Hence, we recommend that separate **Medical Colleges for Tribal Areas** be

opened in selected scheduled districts, one college per three million Scheduled Tribe population in the state. All seats are to be reserved for such committed Scheduled Tribe candidates, to be selected from the respective Scheduled Areas, depending on the population and need for doctors in each Scheduled Area. The aim should be to provide, in ten years, the required number of appropriately trained doctors to serve in these areas. The High Level Expert Group (HLEG) on Universal Health Care, appointed by the Planning Commission, in its report (2011), has recommended that the District Knowledge and Training Centers be developed and made into medical colleges attached to district hospitals, and nearly 187 new medical colleges should be opened in the country, especially in undeveloped regions. These recommendations can be used to open Medical Colleges for Tribal Areas. *Approximately 30 new medical colleges for tribal areas, each with 60 seats per year, will be able to produce nationally about 1800 new doctors per year, selected from, trained and legally committed to work in the Scheduled Area of their origin.*

The Medical Education for Tribal Areas (META) should be, to some extent, different from the regular MBBS, and hence, should not entirely follow the curriculum of the Medical Council of India. Besides the regular medical curriculum, some modifications are necessary such as: i) knowledge of and sensitivity towards tribal culture and language, ii) methods of communication iii) training and management of a health team, iv) competencies in preventing and managing health problems common among the Scheduled Tribe population by way of clinical, outreach and public health approaches, v) collaboration with other sectors of development affecting health, eg. sanitation, nutrition, education, forestry. If necessary, the MCI recognition for this degree may not be sought, or a new degree different than MBBS be created, with legal permission to function as a doctor in Scheduled Areas.

13. **Addiction** has serious effects on the socio-economic fabric of tribal society. It affects not only health but also productivity, family economy, social harmony and ultimately, development. Hence, i) the **Excise Policy for Scheduled Areas**, approved by the Ministry of Home Affairs, Government of India, in 1976 and accepted by the states, should be implemented effectively, ii) the availability and consumption of tobacco and drugs should be severely controlled and iii) the availability and use of alcohol and tobacco products among the Scheduled Tribe population, and the implementation of control policies by the states, should be monitored on selected indicators. These efforts should become a critical part of the Tribal Sub-Plan.
14. The TSP budget, in proportion to the Scheduled Tribe population, should be an additional input and not a substitute to the regular budget for routine activities of

the Health Department in Scheduled Areas. *At least ten percent of the total TSP budget should be committed to the health sector, the Tribal Health Plan in the Scheduled Areas, in addition to the regular health budget for these areas.*

15. **Data on the Scheduled Tribe population** is a basic ingredient for planning, monitoring and evaluating health programs in Scheduled Areas. All national data systems – the Census, SRS, NFHS, NSSO, and DLHS – should be asked to plan for and generate Scheduled Tribe-specific estimates on health indicators at the district level and above. One percent of the total budget for the Scheduled Tribe population (TSP) should be allocated to the generation of reliable, timely, and relevant segregated data on Scheduled Tribes population, from the local to national level. This will provide the crucial instrument – the facts – necessary to guide program managers, policy makers and the Scheduled Tribe population itself.

Towards this, **the specific measures** recommended are –

- Construction of a composite Tribal Development Index (TDI)
- Construction of a composite Tribal Health Index (THI) including the indicators on health status, determinants and health care.
- Ranking of 151 districts with more than 25 percent Scheduled Tribes population and of states on these indices.
- Creation of a high power national body under the Ministry of Health and Family Welfare to facilitate the commissioning and collection of relevant data and monitoring of the indices and progress. This body should complete the work through the various existing agencies/surveys such SRS, NSSO, NFHS, DLHS, AHS, NNMB, the TRTIs in the states, the ICMR institutes network on tribal health, and finally, the health ministries in the states. Necessary administrative and financial authority should be provided to this body. Broadly, one percent of the total health budget for tribal areas (the regular health budget for Scheduled Areas, including the health component in the TSP) should be devoted for this purpose.

16. Research: From the public health point of view, certain aspects of tribal health need research. These are:

- Epidemiology, disease patterns and mortality rates in Scheduled Areas
- Traditional belief systems and practices, and effective communication methods
- Tribal healing systems
- Methods of health care delivery in Scheduled Areas.

The AYUSH (Ayurveda, Yoga, Unani, Siddha, and Homeopathy) department and the Indian Council of Medical Research should incorporate these into their scope of working.

17. The Proposed Goals of the Tribal Health Plan should be:

- To attain the Millennium Development Goals (2015) on health and nutrition for the Scheduled Tribe population in India by the year 2020
- To bring the health, sanitation and nutrition status of the Scheduled Tribe population to the same level as that of the non-Scheduled Tribe population in the respective states by the year 2025
- To create the human resources necessary for provision of healthcare in Scheduled Areas, as per the norms set by the High Level Expert Group on Universal Health Coverage (2011), by the year 2025
- To create and make functional the institutions for participatory governance (Tribal Health Assemblies and Councils) at all levels in the Scheduled Areas by the year 2016
- To annually generate Tribal Health Plans at all levels by the year 2017
- To annually allocate and spend 8.6 percent, in proportion to the Scheduled Tribes population, of the total Health Sector Plan and Non-plan budget, plus 10 percent of the TSP for the implementation of the Tribal Health Plan.

8. Land Alienation, Displacement and Enforced Migration

8.1 Introduction

Tribal communities of India reside in hill areas that are rich in minerals and forest cover. Land is the basis of their socio-cultural and religious identity, livelihood and their very existence. Their lives are closely interlinked with forests for food, fuel, medicine, fodder and livelihood. Their God and guardian spirits reside in hills, forests, groves etc. Traditionally, ownership of land was by the community and economic activity mainly agrarian, including shifting cultivation, which fostered egalitarian values which influenced their power relations and organizational system. Forest and hills are the main source of tribal identity.¹²⁸ It is in this context that the devastation of lives of tribal people caused by loss of access to forest and involuntary displacement from their land has to be understood. Dispossession takes place both directly by depriving tribal communities of their land, habitat, livelihood, political system, culture, values and identity and indirectly through denials of benefits of development and of their rights.¹²⁹ With their control over resources diminishing, tribal communities remain the most vulnerable and marginalized community in the country.

8.1.1 Background

The Development model in India is a carry forward from the pre-independence British period which was based on exploitation of natural resources and human capital for extraction and export of surplus for boosting industrial revolution in Britain. The only difference is that this model of primitive accumulation is being used within the country for development of capital goods sector and in due course this model remained relevant for growth of production in the private sector. In spite of all the promises in the Constitution for protection and special treatment for tribal people and other weaker groups this colonial emphasis did not change in independent India. Due attention and importance was not given to social costs consequently a large number of people were displaced for economic development without regard to proper and holistic rehabilitation of displaced tribal communities and other weaker groups.

8.1.2 Constitutional Provisions

Schedule V of the Constitution lays down provisions for protection of land, and welfare and advancement of Scheduled Tribes. Legal protection is provided in Schedule V under which laws are to be framed by State Governments to 'prohibit or restrict the transfer of land by or among members of the Scheduled Tribes' in

¹²⁸ Ekka, Alex, , 'Displacement of tribals in Jharkhand: A violation of Human Rights', in Nathan and Xaxa (eds.) 'Social exclusion and Adverse inclusion- Development and deprivation of Adivasis in India, Oxford University Press, New Delhi, 2012, pp. 52-53.

¹²⁹ Areeparampil, Matthew, 'Industries, mines and dispossession of indigenous peoples: The case of Chotanagpur', *Social Action*, Vol. 38, July-September 1988.

Scheduled Areas. State Governments did enact legislations, but in connivance with the state machinery, loopholes were exploited for defrauding tribal people of their land and illegal alienation of tribal land by non-tribal people continued as an ongoing process even after independence. This alienation of land has led to decrease in corpus of tribal land and is a contributory factor in 'forced' migration.

It is in this context that the Samatha judgment delivered by the Supreme Court in 1997 is an important landmark as it upholds and protects the land rights of Scheduled Tribes in Scheduled Areas. The judgment states that "the members of (Constituent) Assembly deliberated to protect tribal land for the economic empowerment, economic justice, social status and dignity of tribal persons. This entailed retention of land with the tribals, not only the land belonging to them, but also Government land in Scheduled Areas. ...This manifested the intent of the founding fathers...to prohibit transfer between tribals and non-tribals and provided for allotment of land to the members of the Scheduled Tribes in such areas."¹³⁰ The Samatha judgment, delivered in the context of Andhra Pradesh Scheduled Area Land Transfer Regulation 1959, held that private mining industries are a non-tribal 'person' therefore, mining leases to private industries in tribal lands of Scheduled Areas are null and void and any transfer of land to a non-tribal was prohibited. The judgment went on to state that in Scheduled Areas, every Gram Sabha should prevent alienation of land, and minerals of these areas should be exploited by the tribal people themselves.¹³¹ But both the provisions of the Fifth Schedule and the Samatha judgment could not protect the interests of tribal communities and their lands.

The Sixth Schedule of the Constitution lays down provisions as to the administration of tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram. Under these provisions Autonomous Districts and Autonomous Regions have powers to make laws relating to land, for the management of any forest not being a reserved forest, the inheritance of property, use of water course and canal for purpose of agriculture, etc. But there is a proviso to 3 (a) of the Sixth Schedule which reads as follows:

'Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied, for public purposes in accordance with the law for the time being in force authorizing such acquisition'.

On the basis of this proviso, land and Common Property Resources (CPR) have been acquired and tribal people have been displaced. Moreover, land is one of the reasons for conflicts in some parts of the Northeast and this has caused displacement of people.

¹³⁰ Dias, Anthony, *Development and its human cost: Land acquisition, displacement and rehabilitation of tribals*. New Delhi: Rawat Publications, 2012.

¹³¹ Samatha v. State of Andhra Pradesh (1997) 8 SCC 191; see also Rebbapragada, R and Kalluri, B. 'The Samatha Judgment' in Mehta, Lyla (ed) *Displaced by development: Confronting marginalization and gender injustice*. Sage Publications India, New Delhi, 2009, pp. 249-253.

8.2 Right to Land

Right to property is today a Constitutional right (as distinct from a fundamental right). The fundamental right to property was taken away by amendments to the Constitution for zamindari abolition and bank nationalization. Way back in 1956, when the Fourth Amendment was being made to take compensation for land acquisition out of judicial review, the tribal leader, Shri. Jaipal Singh had emphasized that ‘for the poor man’s sake compensation must be justifiable, for the right to approach the courts is the most effective guarantee against executive tyranny’.¹³² Today we see how the right to property being a legal right and not a fundamental right has worked as a disadvantage against displaced belonging to weaker sections, particularly against the tribals.

8.2.1 Conceptual framework of Land Acquisition Act, 1894: ‘Eminent domain’ and ‘Public purpose’

The State has succeeded in acquiring vast tracts of land and diverting common property resources for construction of dams, infrastructure development, mining and industry, Special Economic Zone (SEZ), etc. Private land has been acquired under provisions of the Land Acquisition Act 1894, under the concept of ‘eminent domain’ based on the principle that the interest and claim of the whole community is always superior to an interest of the individual. This principle of ‘eminent domain’ has been upheld in judgments of the Supreme Court. Researchers while discussing changes in the law had brought out that ‘eminent domain’ had three essential ingredients– first, power of the State to take over private land; second, exercise of this power for public good (public purpose); and third, the State had to compensate those whose lands were acquired for public purpose.¹³³ Ramanathan placed the concept of ‘eminent domain’ in the context of injustice in the model of development and displacement. Under this model, only land owners had a right to be compensated and others such as landless, who had no legal title were excluded and this disregard for segment of the population was ‘because of the limited mandate imposed on the State by the eminent domain doctrine’.¹³⁴

With the enactment of ‘The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013’ comprehensive resettlement has been legally mandated and people affected by the Project have been included. But till this new law came into being, much harm had been caused by the misuse of the concept of ‘eminent domain’.

Customary laws and the special provisions of Fifth and Sixth Schedules for protection of tribal land escape notice when judgments such as the Supreme Court order of 2004,

¹³² Austin 2000, pg. 109 quoted in Sundar, Nandini. ‘Laws, Policies, and Practices in Jharkhand’ in Sundar, N (ed). ‘Legal Grounds: Natural resources, identity, and the Law in Jharkhand. Oxford University Press. New Delhi 2009:pg 12

¹³³ Desai, Mihir. 2011. ‘Land acquisition law and the proposed changes. Economic and Political Weekly, Vol. Nos 26&27. June 25, 2011, pg. 12

¹³⁴Ramanathan, Usha. ‘A word on eminent domain’ in Mehta, Lyla (ed). ‘Displaced development: Confronting marginalization and gender justice’. Sage Publications, India. New Delhi, 2009

regarding dispute over source of water in Nagaland, are passed stating ‘So far as natural resources like land and water are concerned, dispute of ownership is not very relevant because undoubtedly the State is the sovereign dominant owner.’¹³⁵ Further, in another matter, the January 2003 Supreme Court judgment declares:

*‘The power to acquire by State the land owned by its subjects hails from the right of eminent domain vesting in the State, which is essentially an attribute of sovereign power of the State. So long as the public purpose subsists, the exercise of the power by the State to acquire land of its subjects without regard to the wishes of the owner or person interested in the land cannot be questioned’.*¹³⁶

So long such judge-made law, that speaks of ‘subject’ and not ‘citizen’ and emphasizes sovereign power and not the Constitutional notion that ‘it is the people who are sovereign’, the power of eminent domain will continue to displace and impoverish.¹³⁷

‘Public purpose’ has not been clearly defined in the Land Acquisition Act, 1894. In fact, the amendment brought about in the colonial Land Acquisition Act, 1894 added land for residential purposes and developments carried out by local authorities and private companies, within the ambit of ‘public purpose’ which increased the extent of acquisition of private land and diversion of forest and other CPR.

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come many years too late, but is progressive in that it is the first to legally mandate comprehensive Resettlement and Rehabilitation of Project-Affected Persons; but the definition of ‘public purpose’ remains too wide and will not help in minimizing displacement. It also includes the idea of acquisition for private companies even from Scheduled Areas which expands the power of acquisition and alienation beyond what it was under the 1894 Act.

8.2.2 Forest laws

The colonial Government passed the Indian Forest Act, 1865 for acquisition of forest lands for creation of infrastructure such as railways. Later, through the enactment of Indian Forest Act, 1878, the State got monopoly control over forest lands for commercialization purpose. Subsequently, The Indian Forest Act, 1927 was enacted, which was carried over after independence and formed the basis of all forest laws in India. Under its provision new rights were acquired by the State under the principle of eminent domain and cultivation by people, who are descendants of original settlers of land, was categorized as illegitimate. Forests were categorized into three types: Reserved Forests, Protected Forests and Village Forests. The earlier customary rights of tribal people/communities in forests and common lands as included in a record of rights under State tenancy laws (such as that of Chotanagpur and Santhal Parganas

¹³⁵ *Tekaba AO v. Sakumeren AO (2004) 5 SCC 672.*

¹³⁶ *Sharda Devi v. State of Bihar (2003) SCALE 85 at pg. 98, para 31.*

¹³⁷ *Ramanathan, Usha. 2009. ‘A word on eminent domain’ in Mehta, Lyla (ed) 2009: pg 134.*

regions in erstwhile Bihar and now Jharkhand) included rights such as right to take forest-produce from forest land, graze cattle, to fish, to reclaim jungle land or wasteland or to convert land into cultivable land were restricted. Recording of Forest rights of tribal people was discontinued Forest rights of tribal people as Reserved Forests and Protected Forests were ‘brought outside the scope of legal rights settlement’.¹³⁸ The Wild Life Protection Act, 1972, the Forest Conservation Act, 1980, the Tree Prevention Act and the Forest Policy, 1988, also affected tribal people.¹³⁹ Further, the Supreme Court order of 1996 in Godavarman case declared all lands recorded as forest in Government records and brought them under the purview of the Forest Conservation Act, 1980. Thus land earlier recorded as scrub forests, areas of worship, sacred groves and small areas of Sal forests, which were categorized as common land came under the control of the Forest Department. Due to these Forest laws, tribal people of central India who were Forest owners became encroachers and were arrested and imprisoned for minor offences.¹⁴⁰

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important Act, as it has begun the process of recognizing their rights and will be the legal basis for computation of compensation in case of diversion of Forest for development projects. But much harm had already been caused to tribals before enactment of this law.

8.2.3 Ways in which tribal land alienation takes place

Alienation of land of tribal communities and loss of rights to Common Property Resources, mainly forests and large scale displacement and enforced migration takes place in following ways:

- Development-induced displacement by acquisition of land by the State based on principle of ‘eminent domain’ for ‘public purpose’ without a ‘land for land’ provision for rehabilitation. Acquisition by the State for development projects also leads to alienation of land and displacement due to environmental pollution and damage to land in the area near projects but tribal people so displaced are not entitled to any compensation.
- Illegal land alienation takes place due to participation of revenue functionaries and officials, and incorrect interpretation of laws, manipulation of records and permission accorded to alienate land. State Laws are amended to include provisions that facilitate land alienation of tribal communities.
- Community land of tribal communities is recorded as Government land in survey and settlement operations and most State tenancy laws recognize only

¹³⁸ Vasan, Sudha. 2009 ‘Forest law, ideology, and practice’ in Sundar, Nandini (ed.) ‘Legal Grounds: Natural resources, identity, and the law in Jharkhand’. Oxford University Press, New Delhi, 2009, pg 115- 121.

¹³⁹ Saxena, KB 2012. ‘Development is war; Underdevelopment is benign: Political Economy of tribal displacement in India’ in Ghosh, AK and Munda, Ram Dayal (eds). ‘The other side of development: The tribal story’, Konark Publishers Pvt Ltd. New Delhi, 2012

¹⁴⁰ Vasan, Sudha. 2009, pg 122,127

individually owned registered land. Such lands have not been fully surveyed and there is no record of user practices, which would be shown as Government land.

- State action of acquiring tribal lands for settling refugees has resulted in land alienation and displacement. There is also encroachment of tribal land by immigrants.
- Creation of National Parks have resulted in alienation of rights and consequent displacement and forced migration of tribal people.
- Conflicts in the Northeast have resulted in tribal people losing everything and being displaced from their home ground.¹⁴¹

8.2.4 Process of involuntary displacement

Mineral and hydro-electric resource-rich States of India tend to be the very places, which are home to vast majority of tribal people. Baxi¹⁴² has highlighted that people are not partners in the process of decision making regarding construction of dams, areas of submergence, environment impact, allocation of resources and allocation of benefits and adverse impacts of development. Displacement is a process in which marginalized sections, the majority being tribal people, are pushed out of their own habitat and dispossessed of their resources and indeed their universe around them. In post-independence period, their experience of displacement is as dehumanizing as before independence.

The unrestricted power of the State to acquire privately-owned land without any obligation on the State to rehabilitate persons affected has resulted in large number of cases of inadequate compensation, forcible acquisition even without payment of compensation, without replacement of livelihood, without provision of alternative land, without preparation of resettlement sites and without recognition of loss of right to access forest, other CPR and loss of community ties, cultural and religious heritage. Social injustice of State action in reducing every right and interest of tribal people and other marginalized people in their lands to a claim for monetary compensation and the incorrect assumption that money can compensate for all losses, that all displaced are familiar with money market and would know how to handle compensation money. In the case of displaced tribal people their unfamiliarity with money market led to devastating consequences.¹⁴³ All this has led to 'abject and chronic

¹⁴¹Based on 'Report of Committee on State Agrarian Relations and Unfinished Task of Land Reforms', Ministry of Rural Development, GOI, 2009. Fernandes and Barbora. Saxena, KB, 2012. 'Development is War; Underdevelopment is benign: Political economy of tribal displacement in India' Mehta, L. (ed) 2012. Ekka, A. 2012. 'Status of Adivasis/ Indigenous Peoples land series- 4. Aakar Books, New Delhi. 2011.

¹⁴²Baxi, Upendra, 2008. *Development, displacement and resettlement: A human rights perspective* in 'India social development report 2008'. 'Development and displacement'. New Delhi: Center for Social Development, Oxford University Press.

¹⁴³Based on Fernandes, Walter. 2008. 'Development- induced displacement in India: Scale, impacts, and the search for alternatives' in 'India Social development report: Development and displacement'. Centre for Social Development, Oxford University Press. 2008. Fernandes. Fernandes, W and S. Anthony Raj, 1992. 'Development, displacement and rehabilitation in the tribal areas of Orissa'. New Delhi: Indian Social Institute. Fernandes. 1991, 'Power and Powerlessness: Development and displacement of tribals. *Social Action*, 41 (3). Mahapatra, Lakshman K. 1999. 'Resettlement, impoverishment and reconstruction

impoverishment'¹⁴⁴ of the displaced, which should not be acceptable anywhere in the world, leave alone in democratic India.

Various studies relating to displacement by large projects in various parts of India have documented that Public Authorities and Private Corporations alike have either sought to or succeeded in acquiring land, forest and other common property resources from marginalized groups, by giving meager compensation. Most studies document that their rehabilitation has been slipshod, half-hearted and majority of the condition of displaced and project affected people is much worse off than before displacement with many being forced to migrate in search of work. Further, the Displaced People (DPs) and Project Affected Persons (PAPs), who were better organized and articulate have been able to get the benefits of the Resettlement and Rehabilitation (R & R) much better as compared to those who were not organized by NGOs or civil society and who could not articulate their grievances, have ended up being pauperized.

8.2.5 Forced migration for economic survival

Tribal people suffer predominantly from the phenomenon of poverty-induced migration on account of rain-fed agriculture and absence of other avenues of employment. Fragmentation of land, loss of land due to acquisition and illegal land alienation by non-tribals also cause people to migrate. Deforestation and decreasing access to forests and drought are other contributory factors for tribal migration. Due to compulsion involved in migrating in search of livelihood it would be more accurate to describe such migration as 'forced migration'.

8.2.6 Two Views

In an increasingly commodified world, tribal regions have undergone change and today there are two views being expressed, one emphasizes that customary laws and State tenancy laws should be strengthened to bear the onslaught of politico-economic policies, particularly that of industrial and mining policies; the second view is that of the elite of both tribal and non-tribal communities that feels that suitable amendments are required in State Tenancy laws to facilitate opening of markets and opportunities and to attract investment for development of the region.¹⁴⁵

In this scenario, decentralized empowerment becomes imperative for tribal communities particularly at the Gram Sabha Level. Care has to be taken to ensure that District Councils and State-level Council do not have powers to dissolve Gram Sabha and powers to dilute the power and functions of the Gram Sabha.

in India: Development for the deprived. New Delhi: Vikas Publishing House. Lobo, Lancy and Kumar, S. 'Land acquisition, displacement and resettlement in Gujarat: 1947- 2004. New Delhi: Sage. Parasuraman, S. 1999, 'The development dilemma, displacement in India. London: Macmillan Press.

¹⁴⁴Parasuraman, S. 1999.

¹⁴⁵Sundar, N. 2009: pg 12

8.2.7 Protests and agitations

It is the fear of impoverishment that has made people, particularly tribal communities to launch protests against land acquisition and displacement and is one of the reasons for Left Wing Terrorism in tribal regions of Central India. The response of the State ought to be to engage with tribal people to find out what they want.

8.3 Extent of Displacement

8.3.1 Data regarding Displaced Persons and Project Affected Persons

The Centre has not maintained either district-wise or State-wise data of Community wise Displaced Persons/Project-affected persons or their rehabilitation and resettlement, which is symptomatic of the States' disregard for the adverse impact of displacement on various communities.

The narrow definition of displaced person to mean 'a person who due to loss of home has to be resettled' and only landowners to be compensated has led to exclusion of project-affected persons (PAPs), who were deprived of their livelihood base, displaced from community land and socio-cultural and environmental resources. Fernandes and Paranjypte¹⁴⁶ estimated that the number of people displaced due to dams, mines, wildlife sanctuaries, industries during the first four decades of independence was about 21 million and as per Government sources at least 75 percent have not been rehabilitated. Mahapatra¹⁴⁷ pegs the number at 25 million people from 1947–1999. Walter Fernandes, by updating data and by extrapolation based on available studies and case studies in States, where comprehensive studies have not been done, estimated that there were about 60 million DPs/PAPs, since independence to 2000. It was also estimated that 20 per cent were Dalits and another 20 per cent from other rural poor communities, like fisher-folk and quarry workers.¹⁴⁸ Researchers suggest that around 25 per cent of India's tribals become DP or PAP at least once, because their regions are rich in natural resource. In absence of official data the Planning Commission report quotes the estimate 60 million DPs/PAPs arrived at by researchers. The Expert Group on Prevention of Alienation of Tribal Land and its Restoration set up by the Government of India estimates that, of the total displaced due to development projects, 47 per cent are tribal population.

8.3.2 Views of National Human Rights Commission

The National Human Rights Commission (NHRC) has noted that, there has been large scale displacement in four States with large tribal population viz., Andhra Pradesh,

¹⁴⁶ Fernandes, F and Paranjypte, V. 1997. 'Hundred years of displacement in India: Is the rehabilitation policy an adequate response?' in Fernandes and Paranjypte (eds) 'Rehabilitation : Policy and law in india: Right to livelihood'. Indian Social Institute, New Delhi. 1997

¹⁴⁷ Mahapatra, L.K. 1999.

¹⁴⁸ Fernandes, W. (2008). 'Sixty years of development- induced displacement in India: Impacts and the Search for alternatives' in Mathur, Hari Mohan (ed) 'India social development report 2008: Development and displacement'. Council for Social Development, Oxford University Press.

Chhattisgarh, Jharkhand and Orissa based on research studies of NGOs namely Action Aid, the Indian Social Institute and Laya. NHRC observed that where displacement and ‘involuntary settlement’ had received public attention due to efforts of NGOs or media the State had responded, but in other cases displacement had resulted in loss of livelihood and shelter. NHRC has advocated a Rights based approach to Resettlement and Rehabilitation.¹⁴⁹

The table below presents an estimate, primarily based on available Government records of the DPs/PAPs of 13 States in India belonging to various social categories. These figures are a tip of the ice-berg and point to the gravity of the situation.

Table 8.1: Social groups of DP/PAPs from 13 States

State	Tribals	%	Dalits	%	Others	%	NA	%	Total	State ST%
Andhra	970654	30.19	628824	19.56	1467286	45.63	148856	04.63	3215620	6.6
Assam	416321	21.80	NA	NA	609015	31.90	893538	46.30	1918874	12.4
Goa	NA	NA	NA	NA	NA	NA	66820	100	66820	0*
Gujarat	1821283	44.43	462626	11.29	1791142	43.70	23818	0.58	4098869	14.8
Jharkhand	620372	40.08	212892	13.75	676575	43.71	38178	02.47	1548017	26.3
Kerala	NA	NA	NA	NA	NA	NA	552233	100	552233	1.1
Meghalaya	110158	100	0	0	0	0	0	0	110158	85.9
Mizoram	200139	100	0	0	0	0	0	0	200139	94.5
Nagaland	62675	100	0	0	0	0	0	0	62675	
Odisha	616116	40.38	178442	11.64	671351	48.01	0	0	1465909	22.1
Sikkim	20178	36.14	1190	2.13	25720	40.79	8747	15.66	55835	22.0
Tripura	100195	56.66	20518	11.60	NA	NA	56082	31.72	176828	31.1
W. Bengal	1330663	19.16	1689607	24.33	2566223	36.95	1357999	19.55	6944492	5.5
Total	6268754	30.70	3195099	15.65	7807312	38.24	3146271	15.41	20416469	8.2

*Sources: Ekka & Asif 2000:99; Fernandes et al. 2001: 89; Fernandes & Bharali 2006:108; Fernandes & Naik 2001; Lobo & Kumar 2007:99; Muricken et al. 2003:189; Fernandes & Asif 1997:87; Fernandes et al. 2006:91; Fernandes et al., 'Progress at Whose Cost? Development-Induced Displacement in West Bengal 1947-2000, Guwahati: North Eastern Social Research Centre, 2012:17. * Goa did not have any ST population at the time of the present study.*

Table 8.1 gives the State-wise and social group-wise break-up of DPs/PAPs from 13 States showing 20.41 million DPs/ PAPs, out of which 15.65 per cent are Dalits and the proportion of STs in the DPs/PAPs is quite high at 30.70 per cent.

¹⁴⁹ NHRC's 'Recommendations on Relief and Rehabilitation of Displaced Persons' 2008. Pg. 34- 35.

Researchers who have made the estimation point out that dams that submerge revenue land or forest CPRs but dependent DPs/PAPs are not counted. For example, in Hirakud project of Orissa DPs/PAPs dependent on CPR were not included in the official list of 110,000 DPS/PAPs and after their inclusion by researchers, the number of DPS/PAPs increased to 180,000. By updating data and by extrapolation based on these studies and case studies in States, where comprehensive studies have not been done it has been estimated that, there were 60 million DPs/PAPs in 1947-2000.¹⁵⁰ The updated estimates reveal Jharkhand with 3 million DPs, Odisha with 3 million, Andhra Pradesh with 5 million, Kerala with 1 million and Goa with 1,00,000.

Researchers estimate that people were displaced from 25 million hectares including 7 million hectares of forests and 6 million hectares of other CPRs.¹⁵¹ The large-scale displacement of tribal people calls for minimising of displacement.

8.4 Resettlement of the Displaced

Table 8.2: A conservative estimation of displaced by development projects in India, percentage of STs (1951-1990) and number resettled (in lakhs)

Types	All DPs (lakhs)	% of DPs	DPs Resettled	% of Resettled DPs	Backlog	% of Backlog	Tribal DPs	% of All DPs	Tribal DPs Resettled	% of Tribal DPs	Backlog of Tribal DPs	% of Backlog
Dams	164.0	77	41.00	25.0	123.00	75.0	63.21	38.5	15.81	25.00	47.40	75
Mines	25.5	12	6.30	24.7	19.20	75.3	13.30	52.20	3.30	25.00	10.00	75
Industries	12.5	5.9	3.75	30.0	8.75	70.0	3.13	25.0	0.80	25.0	2.33	75
Wild Life	6.0	2.8	1.25	20.8	4.75	79.2	4.5	75.0	1.00	22.0	3.50	78
Others	5.0	2.3	1.50	30.0	3.50	70.0	1.25	25.0	0.25	20.2	1.00	80
Total	213	100	53.80	25.0	159.20	75.0	85.39	40.9	21.16	25.0	64.23	79

Source: Fernandes 1994: 22-32 in Pati 2000 as cited by Nihar Ranjan Mishra & Kamal K Mishra in *Displacement and Rehabilitation: Solutions for the Future*, Gyan Publications, 2012.

There is a lack of official disaggregated data and it is committed researchers who have computed these comparative statements at least for some projects. Dams have displaced the highest number of people. Out of the 21.3 million DPs; about 77 per cent have been displaced by dams out of which 38.5 per cent are tribal DPs. As far as resettlement of DPs is concerned 5.38 million (25 per cent) have been resettled out of which 2.11 million are tribal DPs; and out of a backlog of 15.92 million DPs, 6.42 million (79 per cent) are tribal DPs. Based on field studies, researchers point out that

¹⁵⁰Fernandes, W. 2008. 'Sixty Years of Development- induced displacement in India: Scale, impacts, and the search for alternatives'. *India Social Development Report- Development and Displacement*. Centre for Social Development. 2008, Oxford University Press. New Delhi.

¹⁵¹Fernandes, W. 2008. 'Sixty Years of Development- induced displacement in India: Scale, impacts, and the search for alternatives'. *India Social Development Report- Development and Displacement*. Centre for Social Development. 2008, Oxford University Press. New Delhi.

when Common Property Resources (CPRs) are acquired tribal people are not counted among the land losers.

These estimates are for the period 1951- 1990 and it is probable that the backlog number would have increased greatly. Policy makers disregard the huge backlog of the marginalized, particularly the tribal DPs/PAPs and the new law also does not take cognizance of the backlog. It is precisely the neglect of the backlog and the fear of destitution that has made tribal people launch protests against further land acquisition. It is the responsibility of the State to collect data of the backlog DPs/PAPs and to rehabilitate and reconstitute their livelihood.

Displacement, Resettlement and Rehabilitation in Subsidiaries of Coal India Ltd.

The Table below shows that since 1973, 86728 people have been displaced by Subsidiaries of Coal India Ltd out of which 14487 were tribals. 32271.24 hectares of forest land and 5460.44 hectares of CPR have been acquired in addition to 1,24,506.25 hectares of private land, which is an indication of the great loss of land and resources as against which the displaced were given only 634.45 hectares. Moreover, people who lost their livelihood due to acquisition of CPR and forest land were probably not considered eligible for compensation.

In the case of tribal displaced, they lost 1,39,56.84 hectares of land, but were given only 91.16 hectares under R&R, only 10,097 were given jobs and 81 employed as casual labour. Tribal people are mainly agriculturists and they depend on CPR and Forest for livelihood and sustenance and not being compensated for this loss affects them adversely. Jobs given in lieu of land cannot compensate for land which was a capital resource to be inherited from generation to generation. No attempt is made for skill development and as a consequence displaced tribals have no option, but look for employment opportunities elsewhere. The table below reveals that title deed is not given for homestead land settled with the displaced. Due to lack of title deed the displaced are unable to access public facilities such as PDS provided by Block Offices and it also leads to loss of identity as they find it difficult to get a Scheduled Tribe certificate.¹⁵² This needs to be rectified.

The PSU does not have managerial capacity for carrying out rehabilitation programmes and the focus and vision of the organization is to maximize coal production. Therefore, rehabilitation of the displaced is not given all that importance. The PSU should think of building capacity to deliver on promises made in their R&R Policy.

¹⁵² Basant, J. 2013 evidence of field work of MPhil dissertation in 'Impact of Development- induced displacement and rehabilitation: A study of Piparwar Coal Area of Central Coal Fields Ltd. In Chatra District of Jharkhand.' TISS, Mumbai.

Table 8.3: Information from PSU Coal India regarding Displaced Persons, Resettlement and Rehabilitation

PSU – Coal India/Subsidiary Company				
S.No	Details	ST	Others	Total
1.	No. of persons displaced	14487	72241	86728
2.	No. of displaced person rehabilitated/resettled	11621	60583	72204
3.	No. of displaced person given land under R&R	8652	39236	47888
4.	Total area of land given in hectares under R&R	91.16	543.29	634.45
5.	No. of displaced persons employed as casual labour as part of R&R	81	248	329
6.	No. of persons given jobs as part of R&R	10097	45997	56094
7.	Area acquired in hectares from	13956.84	110549.41	124506.25
8.	Area of CPR acquired in hectares	63.84	5396.60	5460.44
9.	Area of Forest land acquired in hectares	0	32271.24	32271.24
10.	Reason for not giving title deed for land settled as homestead plot with displaced family as part of R&R	Rehabilitation sites are established on land acquired vide provision of CBA(A&D) Act, 1957 or obtained by virtue of Coal Mines Nationalization Act, 1973 and cannot be transferred/mutated into the respective allottees of residential plots.		

Note-the above information/data is from the year 1973 onwards)

8.4.1 Extent of Private, Common and Forest Land Taken For Projects

Table 8.4: Extent and Proportion of Common Land/Forest Diverted and Private Land Acquired

State	Private	%	Common	%	Forest	%	NA	%	Total
Andhra	684725.10	67.99	255077.73	25.33	67362.75	06.69	00	00	1007165.59
Assam	159205.14	28.06	316041.66*			55.71	92034.49	16.23	567281.29
Goa	12649.74	77.85	2880.00	17.72	720.00	04.43	00	00	16249.74
Gujarat	3126527.00	61.54	312653.00	6.15	1641427.00	32.31	00	00	5080607.00
Jharkhand	344952.75	55.11	141226.07	22.56	139710.67	22.32	00	00	625889.49
Kerala	66759.25	43.00	1222.32	0.79	40673.62	26.20	46608.33	30.02	155263.52
Meghalaya	43685.69	58.81	8022.07*			10.80	22492.37	30.28	74200.13
Mizoram	3471.11	16.48	1712.48*			8.14	15874.42	75.38	21058.01
Nagaland	1353.56	5.26	15985.47	61.97	1762.58	6.82	6668.50	25.92	25770.11
Orissa	399859.05	41.81	264648.15	27.99	288845.85	30.20	00	00	956353.05
Sikkim	47031.62	95.16	NA	NA	2184.67	4.84		00	49216.89
Tripura	51177.40	60.38	27762.45*			32.76	5811.81	6.86	84751.66
W.Bengal	1600404.86	85.98	328340.08*			17.02	00	00	1928744.94
Total	6541802.27	60.46	3853545.48			37.55	189489.92	1.92	10592551.42

*The forest common revenue division could not be got fully. So they are combined.

Source: as in Table 8.1

The extent and proportion of common and private land in 13 States is given in the table above from which it appears that 60.46% is private land and 37.55% common and forest land. Most tribal people and others who have been dependent on these revenue and forest CPR were not included in official lists. Research studies of Dalli Rajhara mines, Rajnandgaon district, Chhattisgarh, Hirakud dam in Orissa, Nagarjunasagar dam in Andhra Pradesh and Dumbur dam in Tripura are examples of non- inclusion of PAPs which has had devastating consequences for them. It is the same for Dalits and other landless labourers who provided services and whose livelihood has been lost due to land acquisition but who have not been included in the list of DPs/PAPs.¹⁵³

Report of the Committee on 'State Agrarian Relations and the Unfinished Task- Land Reforms' set up by the Ministry of Rural Development, Government of India indicates that approximately 4.3 million forest lands had been diverted to non-forestry use during the period, from 1952 to 1976. Till 1976, forests was in the State list and the State Governments were responsible for the management of forests and after that mandatory consultation with Government of India in respect of diversion of more than 10 hectares of land was introduced. From 1976 to 2008, 7.76 MH of forest land was diverted and 55 per cent of this diversion took place after 2001. In Chhattisgarh, 1.71 Lakh hectares of forest land was diverted during 1980 to 2003 of which 67.22 per cent was for mining.

No Government consolidated data exists regarding private land acquired and CPR and Forest land diverted. Researchers have diligently worked out estimates to show the extent of the problem. Research studies have brought out that excess land has been

¹⁵³ Fernandes and Chetri et al. 'Progress: At whose cost?' North Eastern Social Research Centre, Guwahati. 2012. Pg 18-23.

acquired for projects and there are agitations and demands for return of land to the original owners. Policy makers need to understand the devastation caused to tribal communities because of loss of land, CPR and forest and it is then that they will be able to respond in a positive manner to the resistance of numerous tribal groups throughout the tribal region against acquisition of their land and resources.

8.5 Analysis of DPs/PAPs in various states¹⁵⁴

a. Andhra Pradesh

Table 8.5: Project-wise number of DPs/PAPs in Andhra Pradesh (1951-95)

Project	No. of DPs / PAPs
Water	1865471
Industry	539877
Mines	100541
Power	87387
Defence	33512
Environment	135754
Transport	46671
Refugees	NA
Farms	NA
Hum Res.	NA
Health	NA
Admin/Office	NA
Welfare	37560
Tourism	0
Urban	103310
Others	265537
Total	32,15,620

R. D'Souza, Nafisa Goga, Choudhary Arundhuti Roy & Asif Mohammed, Development-Induced Displacement In Andhra Pradesh 1951-1995: A Quantitative and Qualitative Study of its Extent and Nature, Indian Social Institute, New Delhi and North Eastern Social Research Centre, Guwahati; 2001.

The highest number of displacement has been caused by dams.

Table 8.6: Distribution of DPs and PAPs by social group in Andhra Pradesh

Social group	DPs	%	PAPs	%
Dalits	2,67,766	16.7	1,08,238	20
Adivasis	12,23,709	76.1	12,17,770	59.6
OBC	1,15,590	7.2	4,18,364	20.5
General	334	0.02	438	0.02
Total	16,07,399	100	17,44,810	100.00

Source: Government records, research documents, press note & knowledgeable persons as cited in Andhra Pradesh report, March 2009: 46, LAYA and Action Aid India; Note: This data includes both already displaced and to be displaced

¹⁵⁴ Based on data collated by Kujur, JM, Asst. Director, Indian Social Institute, Consultant to the Committee

Data from the table reveals that Scheduled Castes and tribal people are the worst sufferers by development projects, when compared to others. The table shows that tribals are in majority among the displaced and project affected persons in Andhra Pradesh. More than 60 per cent displaced by large dams in India belong to Scheduled Tribes and Scheduled Castes, according to the India country study for the World Commission on Dams.

b. Jharkhand

Table 8.7: Total and type of land acquired; extent of DPs/PAPs according to social group in Jharkhand, 1951-1995

Project Type	Total no. of DPs/PAPs	No. of DPs (ST)	Total no. of DPs (SC)	Others (DPs)	Total no. of DPs/PAPs rehabilitated	No. of rehabilitated ST	Areas of forest Land Acquired	Areas of CPR acquired	Areas of private land acquired	Total areas of land acquired
Water %	232,968	175,127 [75.2]	17,554 [07.5]	40,287 [17.3]	NA	NA	48498	94808	364646	507952
Industry %	87,813	29,888 [34.0]	19,956 [22.7]	37,969 [43.2]	NA	NA	13435.91	63768.68	98525.59	175730.18
Mines %	366,971	83,543 [29.6]	63,352 [15.7]	220,076 [54.6]	NA	NA	174614.4	156341.19	184169	515124.59
Power	0				NA	NA	894.04	2534.38	2598.45	6026.87
Defence %	264,353	237,147 [89.7]	18,529 [07.0]	8,677 [03.2]	NA	NA	78610.57	11134.93	22543.61	112289.11
Environment %	507,734	80,867 [15.8]	87,601 [17.1]	339,266 [66.5]	NA	NA	NA	NA	NA	NA
Infrastructure development	50,000	13,800 27.6	5,900 11.8	30,300 60.6	NA	NA	NA	NA	NA	NA
Urban	NA	NA	NA	NA	NA	NA				178824.29
Misc. Schemes	NA	NA	NA	NA	NA	NA	17882.43	8941.21	152000.65	
Missing scheme	NA	NA	NA	NA	NA	NA	11150	113000	27550	50000
Total	15,48,017	6,20,372	2,12,892	6,76,575	70,820	21,000	3,45,085.35	3,48,828.39	8,52,033.3	15,45,947.04

Source : Data for DPs, type of land acquired and total number of Displaced ST, SC and other population: Database on Development-induced Displacement and Rehabilitation in Jharkhand 1951-1995, Indian Social Institute 2000:67,95; Data for R&R : Lok Sabha Secretariat, No.30/RN/Ref./December/2013:2]

It can be observed that between 1951 and 1995, Jharkhand has lost 15,45,947 acres (or 6, 25,889.47 hectares) of land. Out of the total land lost, 8,52,033.3 acres of private land, 3, 48,828.3 acres of Common land and 3,45,085.35 acres of forest land, have gone for various development projects in the State. Category wise, the above table shows that most of the land (5,15,124.5 acres) has gone for mining activities, followed by water resource projects (5,07,952 acres).

Approximately 15,48,017 people displaced or affected by various development projects. Category wise mining projects have displaced and affected the most with a total of 4,02,882 persons; ST constitute 40.07 per cent, SC 13.75 per cent and others 43.7 per cent.¹⁵⁵

As mentioned earlier, the study by Walter Fernandes shows that by updating data the estimates will increase to about 3 million DPs/PAPs in Jharkhand. What is of great concern is that 74.74 percent of displaced persons were not rehabilitated and that tribal displaced faced impoverishment.

c. Odisha

The table below shows that more than 23 lakh acres of land has been alienated in Odisha. A major portion (65.33%) of the land (15,43,328.25 acres) has gone to water resource projects. The table also shows that 41.81 per cent of all land acquired by various development projects was private, 27.99 per cent was CPR, and 30.20 per cent was forest land.

Water resource projects have caused the biggest displacements followed by mines.

Out of the total number of 1465909 DPs/PAPs, 42.02 per cent were Scheduled Tribes and 12.10 percent were Scheduled Castes. Researchers conclude that Scheduled Castes and Scheduled Tribes are peripheral to what is considered the mainstream society and loss of assets, due to involuntary displacement marginalizes them further.¹⁵⁶

As mentioned earlier, Walter Fernandes in his study had pointed out that this data is incomplete as it is for the period 1951-1995 and that by updating estimates, the figure of DPs/ PAPs would increase to about 3 million.

¹⁵⁵ Ekka and Asif, 2000, 'Development- induced displacement and rehabilitation in Jharkhand, 1951- 1995: A Database on its extent and Nature' Indian Social Institute, New Delhi, pg. 95.

¹⁵⁶ Fernandes and Asif, March, 1995. 'Development- induced displacement in Odisha: A database on its extent and nature'. Indian Social Institute. New Delhi, pg. 113.

Table 8.8: Total and type of land acquisition, DPs/PAPs and resettlement in Odisha

Project/Type	Total No. of DPs/PAPs	Total no. of ST DPs/PAPs	Total no. of SC DPs/PAPs	Total no. of DPs/PAPs (Other)	No. of Displaced (1951-95)	No. of DPs resettled (1951-95)	Total land acquired 1951-95 (acres)	Areas of forest Land 1951-95 (acres)	Areas of CPR a1951-95 (acres)	Areas of private land 1951-95 (acres)
Water	8,00,000	3,08,370	80,321	411,309	3,25,000	90,000 (27.69 %)	15,43,328.25	31,6341.77	4,23,436.85	8,03,549.63
Industry	1,58,069	40,656	24,331	93,082	71,794	27300 (38.03)	1,06,626.54	9,168.82	34,521.65	62,936.07
Mines	3,00,000	1,50,000	45,000	1,05,000	1,00,000	60000 (60.00)	4,10,137.24	1,75,169.62	1,66,638.76	68,328.86
Power	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Defence	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Envt	1,07,840	81,090	16,050	10,700	NA	NA	NA	NA	NA	NA
Miscel	NA	NA	NA	NA	50000	15540 (31.08)	302100	2,12,769.03	36,493.68	52,837.29
Others	1,00,000	36,000	11,740	51260						
Total	1,465,909	6,16,116	1,77,442	6,71,351	5,46,794	1,92,840	23,62,192.03	7,13,449.24	6,61,090.94	9,87,651.85

Source: Fernandes and Asif, March 1997: 84,112, 134, 135, Development-induced Displacement and rehabilitation in Odisha 1951 -1995: A Database on its extent and Nature, A study Funded by the Indian Council of Social Science Research, Indian Social Institute.

*18, 29,121.45 acres of land have not been included in the total in which people have no access to NTFP (Fernandes & Asif 1997:84)

There is a conflict between State and tribal communities in Odisha. The State is an emerging steel producing hub in Asia and has attracted a number of steel companies such as Pohang Iron and Steel Company (POSCO), Tata Steel, Mittal Steel, etc. to invest in the State and to establish their production facilities. The establishment of these industries and other development projects has brought tribal communities directly into conflict with the State, sometimes with such brute force that 'Kalinga Nagar' will remain in collective memory as one of the most violent instances of land acquisition and involuntary resettlement.

d. Gujarat

The tables below reflect the extent of land acquisition and displacement in the State of Gujarat. These figures are for the period up to 2004. Updated figures would be higher.

Table 8.9: Land acquisition, utilization and DPs/PAPs by project categories

S.L. No	Categories	Total land acquisition (ha)	Type of land utilized (in Ha)			Total land utilized (ha)	Total no. of DPs/PAPs family	Number of DPS/PAPs
			Revenue	Forest	Govt.			
1	Water Res.	19,18,392	19,21,186	10,08,623	1,92,119	31,21,928	457,414	2378553
2	Industries	180228.62	1,80,296.1	94,655	18,030	2,92,981.1	27,101	1,40,924
3	Mines	7,063	7,063	3,708	706	11,477	794	4,127
4	Non-Hydel	16,287.32	16,925.88	8,886	1,693.00	27,504.88	2,181	11,344
5	Defence	6,791.19	6,872.38	3,608.00	687.00	11,167.38	475	2,471
6	Env't Protection	1,848.13	1,848.13	970.00	185.00	3,003.13	504	2,620
7	Trans & Comm.	7,19,802.49	7,20,016.5	3,78,009	72,002	11,70,027.5	2,60,784	13,56,076
8	Human res	70,425.44	70,425.44	36,973.00	7,043.00	1,14,441.44	3,143	16,342
9	Farm & fish	3,745.99	3,745.99	1,967.00	375.00	6,087.99	1,374	7,141
10	Urban Dev't	1,36,917.84	1,36,917.80	71,882.00	13,692.00	2,22,491.8	16,387	85,213
11	Refugee res	869.34	869.34	456	87	1,412.34	124	645
12	Social welfare	30,387.01	30,387.02	15,953.00	3,039.00	49,379.02	3,936	20,470
13	Tourism	625.42	625.43	328	63	1016.43	124	645
14	Govt. Offices	21,712.44	21,712.45	11,399.00	2,171.00	35,282.45	1,431	7,441
	Unknown	7,517.11	7,636.49	4,009.00	764.00	12,409.49	2,972	15,453
	Total	31,22,613	31,26,528	16,41,426	3,12,656	50,80,610	7,78,744	40,49,465

Source: Lobo and Kumar 2009:95, 98.

Gujarat has acquired an estimated 19,18,392 hectares (47,40,449.87 acres) of land under the Land Acquisition Act for various water resource projects since 1947 to 2004. An estimated 10,08,623 hectares (24,92,361.712 acres) forest land and 19,21,186 hectares (47,47,353.994 acres) of Government land have been utilized by

water resource projects in the State. Majority of the land has been utilized by major water resource projects.¹⁵⁷

Table 8.10: Social background of DPs/PAPs in Gujarat

State	Tribals	Dalits	Other	Total
Gujarat	18,21,283	4,62,626	17,91,142	40,75,051
Percentage	44.69	11.35	43.96	100

Source: Lobo and Kumar 2009

Table 8.10 gives the social background of the displaced and project affected people in the State of Gujarat. Out of total number of 40,75,051 displaced and project affected people, tribals are the majority among DPs/PAPs (44.69 per cent) and are the worst sufferers. Field study of 2004 shows that displaced tribal people faced extreme poverty and were forced to work as labourers in adjoining areas or seasonally migrate and that they were exploited by money- lenders.¹⁵⁸

e. Chhattisgarh

The data in the Table below is based on gazette notifications in Madhya Pradesh prior to its bifurcation. This data reveals that development projects in Bilaspur acquired the highest amount of land that is 54,928.6 (35.65%) acres of the entire land acquired in Chhattisgarh during 1982-90 and 1991-07.¹⁵⁹

¹⁵⁷ Lobo, Lancy and Kumar S. 2009. *Land Acquisition, displacement and resettlement in Gujarat: 1947- 2004*. New Delhi. Sage.

¹⁵⁸ *Ibid.*

¹⁵⁹ Kujur, J. M. 2008. 'Development- induced Displacement in Chhattisgarh: A Case study from a tribal perspective' in *Social Action*. Volume 58. January – March 2008.

Table 8.11: District-wise land acquisition according to project category in Chhattisgarh (1982-90, 1991-2007)

District	Water Resource	Industry	Mines	Non-hydel Power	Defence	Environment	Transport	HRD	Refugee resettlement	Farms & fisheries	Urban Development	Housing	Social Welfare	Health Service	Education	Govt. Offices	Tourism	Total	%
Bastar	3027.9	801.61	36.28	106.82	3703.75	1.23	1081.11	12.47	0	0		15.31		0.2		7.59		8794.27	5.71
Bilaspur	45288.9	61.15	18.59	1612.86	185.67	4.98	7723.72	2.97	0	0.81	1.96	0.28	20.19			6.52		54928.6	35.65
Dantewada	224.88	6.42	9.18	0	0	0	372.3	0	0	0		3.58				1.51		617.87	0.40
Dhamtari	121.24	0	0	0	0	0	4.09	0	0	0								125.33	0.08
Durg	3189.65	223.15	3.41	3.72	7.3	0	242.64	0.76	0	0		11.37				2.01		3684.01	2.39
Janjgir-Champa	10889.1	3.17	182.27	102.1	0	0	50	1.33	0	0		0.23				0.46	0.37	11229.03	7.29
Jaspur	1042.17	4.28	0	0	0	2.6	22.05	0.26	0	0	9.17	4.28		1.95		4.67		1091.43	0.71
Kabirdham	1544.25	45.7	322.94	0	0.2	0	47.64	71.97	0	0					10.49			2043.19	1.33
Kanker	372.35	0	0	0	0	0	8.7	0	0	0		7.78						388.83	0.25
Korba	1026.26	140.87	11.27	1224.97	0	0	56.96	0	0	0		0.23						2460.56	1.60
Koriya	153.94	0	0	0	0	0	10.43	0	0	0		4.42						168.79	0.11
Mahasamund	922.55	0	0	0	0	0	35.28	0	0	0								957.83	0.62
Raigarh	1899.11	986.51	319.37	631.29	0	0.6	86.35	0.11	0	0.85		41.67	0.34		2.6	8.77		3977.57	2.58
Raipur	10044.4	1287.63	13.78	131.76	0.14	1.52	26847.3	0	2.61	0	406.56	159.59	20.71	4.91		372.9		39293.81	25.50
Rajnandgaon	5418.78	2144.68	0.37	0	0	0	483.74	0	2.61	0		0.78			4.59			8055.55	5.23
Sarguja	15266	8.67	475.35	274.77	5.08	32.39	190.53	5.91		0	3.88					4		16266.58	10.56
Chhattisgarh	100431.5	5713.84	1392.8	4088.29	3902.14	43.32	37262.8	95.78	5.22	1.66	421.57	249.52	41.24	7.06	17.68	408.43	0.37	154083.3	100.00

Source: Gazette Notifications, Madhya Pradesh 1982-2000; Gazette Notifications, Chhattisgarh 2001-2007.

Table 8.12 below shows the land acquisition for different categories of development projects in the State of Chhattisgarh before and after its formation in 2000.

Table 8.12: Land acquisition by project category in Chhattisgarh (1982-90, 1991-2007) (in acres)

S. N.	Project Category	1982-1990	%	1991-07	%	Total	%
1	Water Resources	49001.96	96.05	51429.54	49.90	100431.5	65.18
2	Industry	279.73	0.55	5434.11	5.27	5713.84	3.71
3	Mines	62.05	0.12	1330.76	1.29	1392.81	0.90
4	Non-hydel Power	5.25	0.01	4083.04	3.96	4088.29	2.65
5	Defence	3.74	0.01	3898.4	3.78	3902.14	2.53
6	Environment Protection	39.23	0.08	4.09	0.00	43.32	0.03
7	Transport	1480.6	2.90	35782.24	34.72	37262.84	24.18
8	HRD	0.11	0.00	95.67	0.09	95.78	0.06
9	Refugee Resettlement	5.22	0.01	0	0.00	5.22	0.00
10	Farms & Fisheries	0	0.00	1.66	0.00	1.66	0.00
11	Urban Development	39.68	0.08	381.89	0.37	421.57	0.27
12	Housing	57.34	0.11	192.18	0.19	249.52	0.16
13	Social Welfare	0.34	0.00	40.9	0.04	41.24	0.03
14	Health	0	0.00	7.06	0.01	7.06	0.00
15	Education	9.9	0.02	7.78	0.01	17.68	0.01
16	Govt. Offices	31.41	0.06	377.02	0.37	408.43	0.27
17	Tourism	0	0.00	0.37	0.00	0.37	0.00
	Chhattisgarh	51,016.56	100.0	1,03,066.7	100.00	1,54,083.3	100.00

Source: Gazette Notifications, Madhya Pradesh 1982-2000; Gazette Notifications, Chhattisgarh 2001-2007.
Compiled by Kujur, J.M.

When the two time periods of the above study, namely 1982-90 and 1991-2007 are compared one finds that, while 96.05 percent of the water projects were notified in the decades of the 1980s, only 49.90 percent of the water resource projects were notified, from 1990s till date. However, whereas industry projects were only 0.55 percent during 1982-90, they are much higher now with 5.27 percent. Similarly, there was a jump in the non-hydel power projects as well from 0.01 percent in 1982-90 to 3.96 percent in 1991-07. A similar increase was very sharp in transport and communication sector from 2.90 percent in 1982-90 to 34.72 percent during 1991-07. Even in the category of mine projects, an increase can be seen from 0.12 percent during 1982-90 to 1.29 percent in 1991-07.¹⁶⁰

There is a clear shift from the past to the present. However, the above data is only an indicator of the process of industrialization that is taking place now.

¹⁶⁰ *Ibid.*

Displacement in Chhattisgarh due to conflict

One of the reasons for displacing tribal people is conflict between the Maoist and Governments (both centre and State) and ‘Salwa Judum’, a State sponsored armed campaign that was launched to combat Maoists. Though it is argued that Salwa Judum was a spontaneous reaction of the civilians to the Maoists, there are evidences to show the hand of the State machinery in the whole process. Shri. K. S. Subramanian, a former Director General of Police, was quoted as saying-

“While official sources maintain that the campaign, led by a local legislator, is hugely successful with the tribal people joining it in large numbers, local enquiries revealed a different picture. In the name of Salwa Judum, the tribal people are being forced to join a far from spontaneous mobilization [sic]... Hundreds have been killed on both sides. A large area of land remains uncultivated; tribal people who are meant to work on the land have deserted the villages and are living under open skies and are starving. A vast amount of corruption has crept in as a result of this misconceived campaign with the Ruling party spending huge amounts on it.”¹⁶¹

During the visit of HLC to Bastar, NGO representatives had narrated the problem of innocent tribal villagers being caught between security forces and Left Wing Extremists and claimed that thousands of villagers had been displaced as a result of counter-insurgency movements many had been forced to migrate and that one lakh tribal people were missing. Neither the Central nor the State Government monitors the number of people displaced due to conflict.. Whatever data is available on the displaced persons in Chhattisgarh concentrates only on displacement caused by Salwa Judum from 2005 to 2007. Based on number of camp residents staying as on 21/1/2007 in twenty camps located in 11 Blocks of three districts it has been surmised that 47238 persons were affected by Salwa Judum. Researchers feel that this may not give the total picture Out of 1354 villages in undivided Dantewada district, 644 villages were affected by Salwa Judum.¹⁶² In addition 20,000 tribal people have fled to the forests of Andhra Pradesh as mentioned in the report of The Internal Displacement Monitoring Centre of the Norwegian Refugee Council.

The State government should collect data of tribal people affected by conflict and take up measures to ensure that displaced people are resettled and rehabilitated in their villages and it is the responsibility of the State to provide security and promote peace between those who joined Salwa Judum and those who did not. The tribals who were displaced, due to the conflict should not face alienation of their land.

¹⁶¹ *Ibid.*

¹⁶² Sundar, Nandini. 2010. *Pleading for Justice, Seminar, 607*. Available at http://www.india-seminar.com/2010/607/607_nandini_sundar.htm

f. Madhya Pradesh

Table 8.13: Land Acquisition, displacement and R&R data, Madhya Pradesh

S.N.	Details	Information received on 14 March 2014		
		ST	Other	Total
1	No. of persons displaced	28718	68878	97596
2	No. of families displaced	NA	NA	NA
3	No. of displaced persons rehabilitated/resettled	27380	66020	93400
4	No. of displaced families rehabilitated/resettled	NA	NA	NA
5	No. of displaced persons given land under R&R	5344	1912	7256
6	No. of displaced families given land under R&R	NA	NA	NA
7	Total area of land given in hectares under R&R to	8411.66	3192.1	11603.8
8	No. of displaced persons employed as casual labour as part of R&R	219	243	462
9	No. of persons given jobs as part of R&R	75	52	127
10	Areas acquired in hectares from	8923.333	58863.58	68490.23
11	Area of CPR acquired in hectares	NA	NA	NA
12	Areas of Forest land acquired in hectares	NA	12670.9	16062.32
13	Reason for not giving title deed for land settled as homestead plot with displaced family as part of R&R	NA	NA	NA

Source: Additional Director, Tribal Area Development Planning, Bhopal, 24 March 2014.

The table indicates that the total area of land acquired by different projects in Madhya Pradesh is 68,490.23 hectares, out of which 8,923.33 hectares have been taken from Schedule Tribes. Similarly, the areas of forest land acquired are 16,062.32 hectares. Out of total 97,596, the number of Scheduled Tribes displaced is 28,718.

The data of the State Government does not indicate the period for which data has been given nor does it give the complete picture of PAPs. No information has been given of CPR acquired and data of forest land diverted is also incomplete. There is a need for the State, to gather complete data in order to compensate people displaced, particularly tribal displaced as they are affected most with loss of forest resources. Moreover, the data reveals that tribals have not been adequately compensated for their loss of capital resource-land and the number of jobs given does not fully compensate loss of livelihood.

g. West Bengal

Table 8.14: Total number of DPs and PAPs in West Bengal, 1947- 2000

Type	Dalits	%	Tribals	%	Gen/oth	%	NA	%	Total	%
Water	413758	24.00	344798	20.00	775796	45.00	189638	11.00	1723990	24.85
Industry	93580	23.16	90465	22.39	178065	44.08	41870	10.36	403980	5.82
Mining	99244	23.75	2865	0.69	4373	1.05	311579	74.57	418061	6.02
Non-H	33065	21.67	21945	14.38	91290	59.82	0	0	146300	2.11
Env. Pr.	238495	30.38	326050	41.54	186965	23.82	33442	4.26	784952	11.30
Ref. Reh	150000	30.00	100000	20.00	250000	50.00	0	0	500000	7.20
HRD	66000	30.00	44000	20.00	110000	50.00	0	0	220000	3.17
Health	25200	30.00	12600	15.00	46200	55.00	0	0	84000	1.21
Transport	349200	30.00	232800	20.00	582000	50.00	0	0	1164200	16.76
Defence	22335	34.78	31568	26.53	1869	1.57	63237	53.14	119009	1.71
Govt.	49500	33.00	10500	7.00	90000	60.00	0	0	150000	2.16
Farms	27500	25.00	33000	30.00	49500	45.00	0	0	110000	1.58
Urban	120000	30.00	80000	20.00	200000	50.00	0	0	400000	5.76
Welfare etc.	1730	0.24	72	0.01	215	0.03	717983	99.72	720000	10.37
Total	1689607	24.33	1330663	19.16	2566273	36.95	1357749	19.55	6944492	100.00

Source: Fernandes et al. 2006. 'Progress: At whose cost? Development- induced displacement in West Bengal 1947- 2000. North Eastern Social Research Centre, Guwahati. 2012. Pg.239

As elsewhere, in West Bengal too, water resources are the biggest cause for displacement. Out of 69, 44, 492 DPs/PAPs, it accounts for 17, 23,990 (24.83%). Out of 69, 44,492 DPs/PAPs, 19.16 percent are Scheduled Tribes, 24.33 percent Scheduled Castes and 36.95 are in the General/Others category.

Researchers have on the basis of available Government documents arrived at an estimate that out of 69,44,492 DPs/PAPS only 33117 Scheduled Castes, 2321 Scheduled Tribes and 58738 from the 'others' category have been rehabilitated in nine projects. Field study indicates that compensation was paid at 'market value' which was too low to live a life with dignity. Most tribals displaced from projects such as Rammam and Teesta Barrage, did not have a rehabilitation package. Most of the tribal people were CPR dependents, but they were considered to be encroachers and were not compensated for land lost. They lost their livelihood without any alternative being provided and as a consequence were impoverished.¹⁶³

¹⁶³ Fernandes et al. 2012. 'Progress: at whose cost?'. North Eastern Social Research Center, Guwahati. 2012.

h. Northeastern States

The processes of land alienation

Traditionally, this region had a three-tier land ownership and control system: first, community land; second, individual land; and third, clan land. Every community had well-defined boundaries and traditional administration systems based on customary law. There were definite rules on who could cultivate what land and in which season and generally was controlled by the village council made up of men alone.¹⁶⁴

Changes have been conditioned both by external forces and internal dynamism. Land has become a marketable commodity, its exchange happens both within and outside the community. Internal transfer of land or mortgage has resulted in inequalities in its distribution and control. Such internal disparity is one form of land alienation within the community. Among several causes of land alienation within the community, the most important is the growing indebtedness, because of the need for money for medical care and education.¹⁶⁵

The external cause of land alienation is the high demand for land for development projects. The second demand comes from the immigrants who encroach on tribal land. Development projects, especially major dams, being planned in the region, will put pressure on tribal land. A consequence of these processes is shortage of land and ethnic conflicts around it.¹⁶⁶

State action of acquisition of land, migration of outsiders and occupation of tribal lands are among the major processes, resulting in tribal people losing control over their land.

Development-induced displacement

Development projects are one of the main causes of tribal land alienation, for example the National Highway 37 that changed the scene completely. The land used for the bypass near Guwahati, including the Games Village, was once the basis for tribal livelihood. Several tribes, especially the Karbi, Tiwa and Garo were earlier found in sizeable numbers in these areas. Dubious means were used by the State and contractors to lure the original occupants to part with their land. Karbis in and around Ganeshpur-Dispur area lived off the land that was fertile and yielded abundant fruit. This fertile area today has been privatised and lost forever.¹⁶⁷

Another example is that of 20,000 MHz Siang Dam in Arunachal Pradesh, which has submerged the habitat of tribal people, affecting their lives adversely. Laws have made Forests State property leading to loss of access to forest on which tribal people depended for livelihood. The amendment of the Assam Land Reforms and Land

¹⁶⁴ Shimray, U.A. 2006. 'Tribal land alienation in North- East India: Laws and land relations'. Guwahati: Indigenous Women's Forum of North East India and North Eastern & North Eastern Social Research Centre, 2006.

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ *Ibid.*

Regulations Act, 1886, in 1947 has gone against tribal people, because it facilitates manipulation of records. Land grabbers have become more active, after it came into effect, resulting in only 25 of the 35 belts and blocks remaining under the tribes.¹⁶⁸

A perennial problem in Assam is river bank erosion by the Brahmaputra. It has eaten up more than 700 villages in the last two decades. However, when a stronger community is affected, it usually encroaches on the land of a weaker group and in this case tribal land. Such processes that affect all communities have a more serious impact on tribals than on others.¹⁶⁹

The resettlement of external refugees has caused many internal refugees. Mizoram had been hosting temporarily, a Burmese population of 70,000 to 1,00,000 people, who had fled political repression and military oppression. By the end of 1957, 53,318 refugee families had settled in Tripura, out of which, 43,322 families settled down in rural areas (Report of the Administration of the Union Territory of Tripura for the year 1957-58). Since a large number of refugee families were settled in agriculture, it put pressure on agricultural land and eventually put pressure on areas reserved for tribals, which were used by them for Jhum cultivation.¹⁷⁰ There was, therefore, resentment in Tripura, where Bangladeshi Hindu immigrants had occupied more than 60 per cent of the tribal land by 1970. The tribal displaced were not able to defend their livelihood although these lands were CPR, according to their customary law but land laws recognized only individual ownership. Researchers point out that further diversion of CPR through displacement for the Dumbur dam in the 1970s resulted in the insurgency.¹⁷¹

A field study conducted in Assam shows that out of 19,18,874 DPs/PAPs displaced in the period (1947- 2000), 416321 (21.80 per cent) were tribal DPs/ PAPs. Researchers have estimated that 14,05,192.92 acres have been acquired/ diverted for projects, out of which 28.05 per cent is private land, 55.65 per cent is CPR, for 16.30 per cent the type of land was not available. Tribal and other poor DPs/ PAPs, dependent on CPR for livelihood were not compensated.¹⁷²

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ Bhattacharya, C. 1988 'Refugee Rehabilitation and its impact on Tripura's economy'. Omsons Publications, New Delhi

¹⁷¹ Bhaumik, Subir. 2003. 'Tripura's Gumti Dam must go' in Fernandes and Bharali, Gita 'Uprooted for Whose benefit?'. North Eastern Social Research Centre, Guwahati, 2011.

¹⁷² Fernandes and Bharali. 2011. 'Uprooted for Whose Benefit? Development- induced displacement in Assam 1947-2000. North Eastern Social Research Centre, Guwahati. 2011.

Displacement in the Northeast due to conflicts

The Northeastern States have witnessed a series of armed conflict and violence, since India's independence in 1947, which have caused massive internal displacement, of hundreds of thousands of people. The region has also received a steady flow of refugees from neighbouring East Pakistan/Bangladesh, Tibet and Myanmar. In fact, immigration has reduced the number of tribal communities, to a minority in some parts of the region. Though, the Sixth Schedule of the Constitution has become a major tool to provide protection to tribal people in Northeastern States, the problem lies in the fact that many of these groups do not live in distinct areas and their demand for ethnic homeland often overlap with other groups. As a result, their demand for homeland leads to conflict and violence, which has, in turn caused internal displacement. In Manipur, (1992) the conflict between Kukis and Nagas displaced 11,000 population including Kukis and Nagas from their particular places. Mizoram also experienced ethnic violence between Kukis/Paites in 1997 and this led to displacement of 62,880 persons. Bru tribals were displaced for years.

Immigration has come to be linked closely to land, because of the influx of labourers from outside the region. Often these labourers are treated as 'outsiders' by the local community, in the controversy of indigenous versus non-indigenous population. The tea garden workers, who are originally from the central tribal belt, demand recognition as a tribal group which is vehemently opposed by the local community.¹⁷³

Migration to western Assam from East Bengal, now Bangladesh, began in the 1920s, as a deliberate British policy to settle people on waste land; this created a problem as the Boro depended on that land for livelihood. Post-1947 era has witnessed an influx of immigrants from the Hindi speaking regions of North India and from Bangladesh in search of a livelihood. Till 1947, only Assam and to some extent, Tripura experienced immigration from outside the region. Today, most States of the region have to face this problem. It is difficult to make an estimate of the exact number of immigrants, especially of the Bangladeshi, because of political reasons.¹⁷⁴

The conflicts in this region are mostly linked to land alienation, due to influx of outsiders as people are fighting for natural resources in the same geographical space. A study of Guwahati University showed that a large number of youth, who joined militant groups had employment as one of the motives.¹⁷⁵ During the visit of the Committee to Assam, NGOs representing tribal interests expressed their angst that if nothing was done to stop the influx of outsiders, they would be doomed and vanish as a community. In this background, State inaction in solving problems of tribal people

¹⁷³ Fernandes and Pereira, M. 2005. 'Changing Land Relations and ethnic conflicts: The case of North- Eastern India'. North Eastern Social Research Centre. Guwahati.

¹⁷⁴ Ibid.

of the region has led to tribal people losing control over land and community resources and resultant displacement.

The State Government should be proactive in protecting the interests of tribal people and in preventing alienation of their resources, in tribal land restoration, poverty alleviation and human resource development. The problem of unemployment has to be addressed. Tribal communities should be made participants in the processes of development.

8.6 Alienation of Tribal Land by Non-tribals

In spite of Constitutional safeguards and State Schedule Area Regulations and Tenancy laws for the protection of tribal land there is a continuous process of land alienation by non-tribals in connivance with the instruments of the State.

Case Study

Kamal K. Mishra's 'Study of alienation of tribal lands in Scheduled V Areas (2002)¹⁷⁶ of Andhra Pradesh, undivided M.P. and Odisha is a comprehensive study of tribal land alienation. The study revealed that 1,396 tribal households out of the 6,358 sample households (21.95 percent) had lost 6185.5 acres of their land constituting 24.69 percent of the total tribal land in villages under study between 1999-2000. Tribal to tribal transfer of land accounted for 14.04 percent, while tribal to non-tribal transfer was 85.95 percent. The study showed that prolonged indebtedness of the tribal households was the main cause of tribal land alienation. This has happened in spite of a slew of pre-independence and post-independence legislative safeguards against tribal land alienation.

Mishra's study highlights that tribals were less politically organized and unaware of their Constitutional rights. More than 85 percent did not know that there were laws against transfer of tribal land. Most of the surveyed households earned less than Rs.5000/- per annum. With the depletion of the forests and access to CPRs, they had become more dependent on purchase of house construction materials like bamboos/tiles from the market. About 82.11 per cent of tribal households surveyed were in debt. Unwanted urbanization and industrialization in tribal areas, led to land scarcities and land alienation. Expansion of easy communication facilities to tribal areas has led to influx of non-tribals from outside leading to increased land-alienation among the tribals. This study identifies the methods by which lands are transferred from the tribal landowner to another tribal or to a non-tribal person. There are eight different methods adopted by the land transferees in the study villages, namely by (i) sale, (ii) mortgage, (iii) benami transfer, (iv) forcible occupation, (v) oral transfer of

¹⁷⁶Misra, K.K. 2002. 'Andhra Pradesh, Madhya Pradesh (undivided) and Odisha: A study of land alienation of tribal lands in Schedule V Areas. Hyderabad. 2002.

possession, (vi) marital alliance, (vii) in the name of concubines, and (viii) by other fraudulent means. Indebtedness on account of religious and social obligations and expenses on litigation, medical treatment and alcoholism has further accentuated the problem of tribal land alienation. The study mentions the apathy and insensitive attitude of officials handling land issues of tribals. All these factors with penetration of market forces in tribal areas were threatening to dispossess tribals of their land resources, on as large a scale through land alienation as development-induced displacement. The study also made detailed recommendations about loopholes in the law that needed to be plugged and the need for monitoring, providing legal aid and creating awareness.¹⁷⁷

State-wise position of cases filed for restoration of tribal land

State Governments are required to take legal action to restore land to tribal people in Scheduled Areas, to monitor disposal of cases and provide legal aid. The table below gives the State -wise position regarding cases.

¹⁷⁷*Ibid.*

Table 8.15: State-wise information on alienation and restoration of tribal lands

Sl.No.	State	No. of cases filed in court	Area	Cases disposed of by Court	Area	Cases rejected	Area	Cases decided in favour of STs	Area	Cases in which land was restored to STs	Area	Cases Pending in Court	Area
1	Andhra	65,875	287,776	58,212	256,452	31,737	150,227	26,475	106,225	23,383	94,312	7,663	31,324
2	Assam	2,042	4,211	50	19	-	-	50	19	50	19	1,992	4,192
3	Bihar	86,291	104,893	76,518	95,151	31,884	49,730	44,634	45,421	44,634	45,421	9,773	9,742
4	Chhattisgarh	47,304	NR	46,807	NR	NR	NR	21,348	43,803	21,269	43,620	79	181
5	Gujarat	20,704	75,966	19,819	73,317	497	1,353	19,322	71,965	376	1,942	885	2,649
6	Jharkhand	5,382	4,002	1,362	NA	283	NA	1,079	860	1,079	860	4,020	NA
7	Karnataka	42,582	130,373	38,521	115,021	16,687	47,159	21,834	67,862	21,834	67,862	4,061	15,352
8	Madhya Pradesh.	53,806	158,398	29,596	97,123	29,596	97,123	NR	NR	NR	NR	24,210	61,275
9	Maharashtra	45,634	NR	44,624	99,486	24,681	NR	19,943	99,486	19,943	99,486	1,010	NR
10	Orissa	105,491	104,742	104,644	103,556	43,213	46,677	61,431	56,879	61,364	56,854	847	1,186
11	Rajasthan	2,084	6,615	1,257	3,978	53	187	187	587	187	587	1,067	2,355
12	Tripura	29,112	25,441	9,040	7,269	20,043	18,131	9,040	7,269	8,945	7,165	95	104
	Total	506,307	902,417	430,450	851,372	198,674	410,587	225,343	500,376	203,064	418,128	55,702	128,360
	Total in hectares		365,351		344,685		166,129		202,581		169,283		51,968

Source: Annual Report 2007-08, Department of Land Resources, p.276

The above table gives State-wise details of progress made in cases filed under the State laws for restoration of alienated land. The table shows that 506,307 cases of tribal land alienation had been filed, which covered land area of 9,02,417 acres, out of which 2,25,343 cases, were decided in favour of tribals with an area 5,00,376 acres land. The total number of cases rejected by the Courts on various grounds are 1.99 lakh, covering an area of 4.11 lakh acres. The high proportion of cases rejected is a cause of concern and could be due to loopholes in law and apathy, or connivance of State machinery. Odisha has the highest number of filed cases in the court, which is around 1,05,491. The performance of Madhya Pradesh is dismal, as no case of disposal in favour of the tribals has been reported. In Gujarat, there is a huge gap between the number of cases-1,93,22 decided in favour of restoration and the number of cases- 376 in which land was restored. This could be deliberate or due to stay orders given by Appellate Court.

The above data gives an idea of cases that have been filed and shows that the progress of restoration of tribal land is not satisfactory. Moreover, there may be many instances of land alienation, for which cases have not been initiated. The Committee on 'State Agrarian Relations and the Unfinished Task- Land Reforms' set up by the Government of India has observed that the 'process of restoration of alienated land is worse than alienation' and further notes that, the 'Courts, bureaucrats and mostly public men, are often formidably interlocked against the tribals.'

There is a need for the State to be proactive in restoring land to tribals for ensuring fast disposal of cases and proactive in plugging loopholes in tenancy laws, removing ambiguities in law and in modifying Survey and Settlement procedures to take into account tribal interests and particularly being vigilant to prevent instruments of the State from conniving with the unscrupulous for defrauding tribal people of their land. Further, States need to take action to suitably amend tenancy laws to empower Gram Sabhas in Schedule V areas to protect tribal land. Priority should be given to tribal people in settlement of Ceiling surplus land and wasteland, as they are primarily agriculturists and land fragmentation leading to small holdings, loss of land due to acquisition and illegal alienation is a factor for their enforced migration for economic survival.

Case Study of Tribal land alienation by corporate houses in Chhattisgarh

A case study based on field study conducted by Stanislaus Tirkey, Secretary, CBCI Tribal Affairs, Delhi, has brought to light several cases of land alienation by corporate sector, for example 90 acres of tribal land has been acquired for Gulu Hydroelectric Power Private. Ltd. in Manora Block of Jashpur (Chhattisgarh). According to the researcher, cheques for 31 affected families were given fraudulently, under the pretext of bonus for farmers in a so-called Kisan Mela at Manora block. People were unaware about the compensation given to them. The project affects 22 villages around Gulu,

Jhargaon, Matlonga and Alori. Information collected through RTI by researchers, reveal that the consent of the actual Gram Sabha was not obtained as per provisions of PESA.

Similarly, tribal land was acquired from 38 farmers for Loker Dam in the name of a Gram Sabha. Researchers have stated that the minutes book and records of Panchayats of Rede, Saraitola, Bangaon B, Pemla, Jamargi B, Chiknipani (Karradanr), Loker and Godhi, show that no Gram Sabha meeting has ever taken place to approve the project. This project will affect nine Panchayats in the area.

The case study reveals that Avantha Group has acquired 43.7 hectare of tribal land in the name of eight tribals in Pusaur in Raigarh district:

Sharda Energy and Minerals Limited has purchased the entire tribal land in Kerkachhar village of Baloda block in Janjgir-Champa in the name of only three tribals. One Jaykumar Paraste has bought 24 hectares of land worth 2.84 crores from 35 tribals. However, no one knows the whereabouts of Paraste. Videocon bought 28 hectares of agricultural land worth 3.36 crore in the tribal villages of Gond and Gadpali in Janjgir Champa to set up 1,200 MW power plant. It bought land in the name of Bilam Singh from Kabeerdham.

Further, the case study indicates that Government land records show at least 1,981 cases of transfer of tribal land to non-tribals in the past three years. In Mahasamund, 150 cases of such kind were recorded for investigation by the Commissioner in 2011. In Bastar, a Scheduled Area district, 63 cases of tribal land transfers to non-tribals, were registered.

According to a 1964 Act that is in force in Chhattisgarh, a non-tribal may not buy a tribal land; he can only do so with the permission of the Collector and the Commissioner. Therefore, researchers have raised the question as to how tribal land, on such a large scale has been alienated. Further, there have been violations of PESA which endow Gram Sabha “the power to prevent land alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawful alienated land of a Scheduled Tribe.”

The case study reveals that people have started organizing themselves to protect natural resources and resources of their livelihood under the banner of Jashpur Jan Sangharsh Samittee, Jashpur and Chhattisgarh Visthapan Virodhi Manch, Raipur against the unconstitutional and illegal way of exploring minerals and alienating tribal land in the name of development and thereby destroying their traditions and distinctive cultures and disrupting well-knit communities. It is clear that all this is taking place with the connivance of official machinery.

In such specific cases as brought out by the case study, the State should get the matter enquired and take action for restoration and prevent further tribal land alienation. NGO support in such cases is invaluable.

8.7 Impact of Migration on Tribal Communities

Deficiencies in NSSO/ Census Data

The main sources of data on migration are the Census of India, Office of the Registrar General and the National Sample Survey. Both these data do not throw full light on seasonal and circular migration and do not capture various forms of child labour. Smaller studies show that child migrants from families of weaker sections such as from tribal communities form a large part of the work force in several sectors such as construction, brick- kilns, small industries, domestic work etc.

The 55th round of NSSO was the first to cover short- term duration migration.

The Registrar General of India, Dr. C. Chandramouli while commenting on increase in urban growth indicated in Census 2011, made it clear

*‘This would suggest migration as a significant factor in urban growth. But what kind of migration we can only ascertain or comment on when their patterns emerge more clearly. The Census in itself is not structured to capture short- term or footloose migration’.*¹⁷⁸

It is recommended that Census capture seasonal/ circular migration data social group-wise.

An Analysis of Social Groups and Migration

In 2001, for the first time, the census data tabulated figures for social groups such as the SCs and STs in the country. The migration level among SCs and STs indicates that about 25.3 per cent of SCs and 25.4 per cent of STs were reported as migrants within the same State, based on the place of last residence (PLR). Of the total migrant population within the State, more than three fourths were reported to move within the district (intra-district-76.9 per cent for SCs and 83.5 per cent for STs).

An analysis of the NSSO data for the 49th round (9 Jan- June 1993) and 64th round (July 2007- June2008) shows that the proportion of migrant households among ST in rural areas decreased between 1993 and 2007- 08, but the trend was the opposite in urban areas. The NSS 64th round shows that in urban areas, the proportion of ST migrant households was higher than the proportion of migrant households of other social groups.

Causes for tribal migration

Migration-poverty interface

There are three important constraints that perpetuate poverty among migrants in the Indian situation. These are: poor education, discrimination, and a hostile policy

¹⁷⁸ Quoted in ‘Exploring Rural- Urban dynamics: A study of Inter- State migrants in rural Gurgaon’. March, 2014. Society for Labour and Development, New Delhi.

environment.¹⁷⁹ In the case of tribal migrants, the literacy rate is low, not much is being done for developing skills and they do not have access to public facilities such as PDS in the place they migrate to. The State's apathy and lack of capacity to implement protective migration/labour laws compounds the problem. Moreover, the wage rate is very low. Circular/seasonal migration is the dominant form of migration of poor tribal people. They leave their village after completing agriculture work and migrate as casual, low skilled workers and return after completion of work. Since tribal migrants have little or no education and low skills, which translate into low marketable skills for both rural and urban employment, they form a part of the unorganized sector and have little bargaining power.

The poorest and deprived areas of the tribal belt in Central India such as Chhattisgarh, Telengana region, Jharkhand, southern Madhya Pradesh have become labour pools, from where cheap labour can be drawn on seasonally. Due to poverty and lack of employment opportunities, tribal families send unmarried daughters to cities in search of work. Single women and tribal girls are, however, prone to exploitation not only by employers, but also by anti-social elements. Migration is an important livelihood activity and research by Mosse et.al,¹⁸⁰ in the tribal districts of southern Madhya Pradesh revealed that 65 per cent of households included migrants, who worked mainly in the construction sector. Migration grew in the area as a few years later, another study in the same area found that, in many villages up to three-quarters of the population were absent between November and June.

Displacement

Development-induced displacement has resulted, not only in loss of land due to acquisition for the project but also in influx of non-tribal outsiders in these areas, who illegally alienate tribal land and take the benefits of the new economic opportunities in commerce, trade and industry. Migration of displaced Scheduled Tribes is indicative of Government's failure to provide livelihood in the new environment.

Deforestation

Uprooting of tribals from their traditional habitat, receding forest cover combined with low agricultural productivity and rain-fed agriculture, create the need for credit and this leads to seeking employment and livelihoods under bondage, often through migration. For example, tribal migration from Jhabua in Madhya Pradesh and tribal areas of Chhattisgarh is a compulsion.¹⁸¹ Tribals in Jharkhand migrate in streams to the brick kilns of Uttar Pradesh or rice mills of neighbouring states to the agriculturally prosperous areas of Bihar, Bengal, Uttar Pradesh or Punjab mainly for

¹⁷⁹ Deshingkar, Priya and Farrington, J. 2009. 'A framework for understanding circular migration' in Deshingkar and Farrington (eds) 'Circular migration and multilocal livelihood strategies in rural India'. Oxford University Press. New Delhi. 2009.

¹⁸⁰ Mosse, David et al 1997. 'Seasonal labour migration in tribal (Bhil) western India. Swansea: Centre for Development Studies, University of Wales.

¹⁸¹ Joshi, 1997.

sowing / transplanting/ harvesting of paddy and wheat and to the metropolitan towns and cities as domestic workers and maid servants.¹⁸²

Drought

In contrast to seasonal migration, distress-induced migration is primarily the result of factors which include drought, land alienation, debts and high levels of food insecurity. This form of migration, which had increased in Kalahandi in the 1990s, is a final resort when other coping strategies fail. Such migration usually starts as early as September-October, when there is little possibility of harvesting a crop. Recruiting agents take the opportunity to recruit even cheaper labour than they can normally expect. Due to three successive droughts in 1996- 2000, distress-induced migration had become 'seasonal' in character and an integral part of the regular coping strategies.¹⁸³ A significant number of tribals, mainly from drought prone areas of Andhra Pradesh, Karnataka and Maharashtra, migrate to work in construction, tile factory, brick-kiln and crop-cutting in Maharashtra.¹⁸⁴

Costs and risks of migration

Migration has both positive and negative consequences for migrants. While it saves them from starvation at home, it exposes them to appalling living and working conditions at construction and other work sites. Additionally, migrants also do not have access to pro-poor schemes such as subsidized food, health care and schooling and must pay for everything.

On the positive side, migration has given tribal people an exposure to the outside world including new skills. Their remittances have helped the family in consumption, repayment of loans, fulfilling social obligations and to finance working capital requirements in agriculture as well as investment in better housing and purchase of consumer durables.

On the negative side, they suffer from family and social disorganization, harsh and unhygienic living conditions at work sites and physical and sexual violence in the case of female domestic workers. Empirical evidence collected by case- studies in tribal areas of Central India indicate that women domestic workers on their return to the village are viewed with distrust, as they show signs of having been influenced by an alien culture. Such women workers are exploited and harassed, when they migrate and are regarded with suspicion when they return. Comparison made between tribal families who migrate and those who do not, reveals that the non- migrating families own more land comparatively and are in a better position to access and benefit from various development schemes available for them and so are able to improve their standard of living and educate their children. On the other hand, migrating tribal

¹⁸² Toppo, Ranjit. 2007. 'Dynamics of tribal migration in India'. Xavier Institute of Social Services, Ranchi.

¹⁸³ Banik, Dan. 2007. 'Starvation and India's Democracy'. London: Routledge Advances in South Asian Studies.

¹⁸⁴ Pandey 1998 cited in Srivastava, R, et al 2003 'An overview of migration in India. Its impacts and key issues.' UK: Department for International Development.

families have less land, lower level of literacy and on migrating, suffer from exploitation and harassment and low wages. They are able to stave off starvation, but do not earn enough to improve living standards. Moreover, their children do not get education and so the future of the next generation is equally bleak. Added to this, is the tendency of the unskilled youth to prefer employment in non-agriculture sectors, as farming does not give adequate returns. This is a challenge for both rural and urban planners.¹⁸⁵

Keeping in view that tribal livelihoods are conditioned by the eco-system and they are dependent on agriculture, large scale migration due to poor economic conditions is a serious cause of concern.

8.8 Involuntary Displacement and Tribal Situation: Before and After

From Self-sufficient Tribal Communities to Marginalization and Impoverishment

The traditional livelihood systems of tribal people based on shifting cultivation and collection of non-timber forest produce was rendered sustainable, by a level and pattern of utilization of land and forest resources, which ensured their self-generating capacity. Later, they took to settled agriculture and their livelihood system provided for a nutritionally balanced food consumption basket that was rooted in both subsistence and conservation ethics.¹⁸⁶ The traditional livelihood system was based on customary rights of tribal communities over land and forests, which was also an 'extensive' system of production. The 'common pool' of resources supported customary rights and prevented the intensification of production, in the interest of conserving and sustaining the long-term productivity of livelihood resources.¹⁸⁷ The customary rights of tribal people over livelihood resources and their territorial sovereignty (in so far as land was territory, not property) came in to conflict with the forces of 'modernisation' and the development process in which they were not participants. In keeping with the politico-economic policies of the country, large projects, which came up in tribal areas rich in hydro and mineral resources, encroached on tribal people's ancestral lands and thereby displaced them.

In order to take measures against the socio-economic deterioration of displaced tribal people, it is important to understand the extent of displacement-induced impoverishment. Displacement is marginalisation, not merely economic deprivation. Therefore, in defining impoverishment, it is necessary to go beyond the economic factor and it is incorrect to calculate losses and gains on the basis of monetary income alone or to conclude that the status of the DPs improves after displacement, because

¹⁸⁵ Based on Datta, S. et al (eds.) 2012. 'State of India's livelihoods Report 2011. New Delhi: Sage Publications. Mosse et al 2005. 'On the margins in the city: Adivasi seasonal labour migrants in Western India' in *Economic and Political Weekly*, 40 (28). Pp. 3025- 3038. Toppo, R, 2007. 'Dynamics of tribal migration in India.' Xavier Institute of Social Services. Ranchi

¹⁸⁶ Padhi, Sakti and Panigrahi, Nilakantha, 2011. 'Tribal movements and livelihoods: Recent Developments in Orissa'. CPRC-IPPA Working Paper No. 51.

¹⁸⁷ Ibid.

their monetary income rises. In making an assessment, it would not be right to ignore the fact that before displacement, most DPs/PAPs belonged to the non-monetised informal economy and often depended on the CPRs or services to the village as a community.¹⁸⁸

Before displacement, the DPs/PAPs were poor, but it is due to deprivation of their livelihood that they experience deterioration of their economic status. This dispossession is accompanied with environmental degradation, which is a basic additional factor causing impoverishment. The decision to alienate their resources is without their consent; they are not compensated and rehabilitated, resulting in their subordination. This marginalization leads to low self-esteem. The sustainable tribal culture that had ensured renewal and equal distribution of resources is weakened, leading to shortage of resources. The tragedy is that for sheer survival, the tribal DPs/PAPs are forced to 'make a transition from constructive to destructive dependence on the same resources'. This causes great psychological stress.¹⁸⁹

Factors that accentuate loss faced by tribal people

Researchers have identified certain characteristics of tribal society that aggravate the impact of involuntary displacement, they are:¹⁹⁰

- Land for tribes is a source of livelihood and source of identity, ethnicity and cultural distinction. Thus, the loss of land plays havoc with the lives of the displaced tribal communities. Under R&R programmes, land is not replaced and there is no reconstitution of livelihoods. Loss of their cultural space and identity leads to cultural impoverishment, which is not addressed.
- Dependence on forests for food in the form of shifting cultivation, fruits and flowers, small game, tubers; for medicines, fodder, material for house building; raw material for traditional art and crafts; income by selling firewood, leaf-plates, fruits etc.¹⁹¹ This loss, due to displacement is not compensated and affects food security.
- Lack of proper legal recognition of tribes over the forest land and hill tracts compounds the problem, when it comes to the question of compensation.
- Lack of social relations outside the closely-knit kin-centered society. Displacement leads to disruption in family life and to loss of social network.
- The land rights structure in tribal societies is altogether different from what it is in other societies. Tribal communities do not confer any individual rights in a legal sense. The community rights they confer are the utilitarian rights on nature but not the proprietary rights which attract the provisions of

¹⁸⁸Fernandes, Walter. 2001. 'Development- induced displacement and sustainable development'. *Social Change*. Vol. 31 Nos 1&2.

¹⁸⁹Fernandes, W, et al 'Progress: at whose cost?' 2012. North Eastern Social Research Centre. Guwahati. Pp 29-31.

¹⁹⁰ Based on Saxena. 2012 'Development is war; Underdevelopment is benign: Political economy of tribal displacement in India' in Ghosh & Munda (eds) 'The other side of development'. Konark Publishers, New Delhi.

¹⁹¹Fernandes 1993 cited in Saxena, K.B. 'Development is war; Underdevelopment is benign: Political economy of tribal displacement in India' in Ghosh and Munda (eds) 'The other side of development: the tribal story' Konark Publishers International. New Delhi, 2012.

compensatory measures. Many a time, displaced tribal people were deprived of compensation and rehabilitation benefits as per the Land Acquisition Act, 1894 because they did not possess any legal documents to prove their ownership right on the land they occupy and earn their livelihood from.¹⁹²

Contrast in coping mechanism: Vulnerability of the tribal displaced

Other social groups are in better position to benefit from R&R programmes. For example, about 88 percent of land acquired for the National Aluminium Corporation at Angul, a non-tribal district in Odisha, in the mid-1980s was private. Its owners, who mainly belonged to a dominant and influential social group were paid Rs 62,000 per hectare. At Damanjodi in Koraput district, 60 per cent of the land acquired for the company's second unit that same year was Common Property Resource, belonging to tribal population. No compensation was paid for it, because community owned resource/land was considered as State's property. For the little private land they owned, tribal families were paid an average of Rs 6,700 per hectare, a totally inadequate sum to start a new life.¹⁹³ Another example is that of Maharashtra Irrigation Project on Krishna River in Satara district, where 75 per cent of households affected belonged to the influential Maratha community, who used political clout to obtain facilities under R&R.¹⁹⁴

Research studies show that the displaced tribals cope with their loss and changed conditions better than Dalits and other weaker sections as long as they are allowed to continue to live in their traditional habitat, as they have honed skills for the management of their habitat. It is when they are forced to migrate or are resettled outside their territory that they are not able to adjust and operate in an alien territory and new society. The tribal way of life centers on their community. This extends from support in basic agrarian work to solidarity in times of trouble. Any displacement and scattered rehabilitation will destroy this collective welfare system that binds them together.¹⁹⁵

Deterioration in Quality of life of Tribal DPs/ PAPs after displacement and Resettlement

Impact of Losses without Recompense

Researchers such as Fernandes, Parasuraman, Mahapatra, Tripathy, Alex Ekka, Mohammad Asif, Lancy Lobo, Das, Rao to name a few, based on their extensive research and field work, have brought out the stark reality of displacement without

¹⁹² Saxena, KB, 2012. 'Development is war; Underdevelopment is benign: Political economy of tribal displacement in India' in Ghosh and Munda 'The other side of development' Konark Publishers. New Delhi.2012.

¹⁹³ Fernandes.

¹⁹⁴ Parasuraman, S. 1999. 'The development dilemma. Displacement in India. London Macmillan Press.

¹⁹⁵ Saxena, K.B. 2012

provision of alternative land and reconstitution of livelihood, causing impoverishment of the displaced. Many DPs/PAPs are forced to migrate. For example, the findings of the Ombudsmen appointed by the Supreme Court revealed that, about 30,000 people working for construction of facilities in abject conditions for the Asian Games in New Delhi in 1982, were people who had lost their livelihood due to deforestation by industry or had been displaced by Hirakud dam and other projects.¹⁹⁶

In the context of Cernea's eight fold risks, empirical evidence collected by researchers shows that the DPs/PAPs in India, 40 per cent of whom belonged to tribal communities, experienced landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of Common Property Resources and social disarticulation. Apart from land and forest, access to CPRs like wells, ponds and grazing grounds has been diminished by development projects, adversely affecting tribal occupations such as cattle rearing. Further, empirical evidence shows that the reconstruction aspect of the 'Impoverishment risks and livelihood Model' of Cernea has been totally neglected, due to absence of a legally mandated provision for alternative land and livelihood and Resettlement and Rehabilitation Framework as well as poor management of R&R. All this led to impoverishment of the displaced.¹⁹⁷

Indian researchers have also included the risks caused by loss of education and loss of access to public facilities. Empirical evidence points to the existence of resettlement sites without basic facilities such as schools. In fact, migrants lose access to public facilities as they are not recognized in their new place of work. The process of land acquisition and the completion of the project take years. During this period, development works are not taken up in the region, adversely affecting project-affected people.

The following case studies highlight the deterioration in the quality of life of tribal people after displacement and the process of impoverishment.

- 1) The Heavy Engineering Corporation Ltd. established in Hatia, Ranchi district, Jharkhand, in the early 1960s is an example of the adverse impact of displacement on tribal communities. In addition, excess land was acquired in the name of 'public purpose' – a total of 7,748.80 acres, including 6,356 acres of private land was acquired for the purpose of constructing factories, township, railways, dams, etc. but about 2,600 acres of land was not utilised. There was complete displacement of 13 villages and partial displacement of 22 villages. Out of the 3090 families displaced, 2274 families belonged to the Oraon and Munda tribes. According to an evaluation report carried out by the

¹⁹⁶ Fernandes and Chetri et al 'Progress: At whose cost?' 2012. North Eastern Social Research Centre. Guwahati.

¹⁹⁷ Based on Mahapatra, Lakshman K. 1999; Parasuraman, S (1999); Lobo, Lancy and Kumar, S (2009); Frenandes, W & Bharali, G (2006); Kujur, J.M (2008); Fernandes, W, Chetri, S et al (2012); Mankodi, 1992. 'Resettlement and rehabilitation of dam oustees: A case study of Ukai Dam' in Thukral, E.G (ed) 'Big dams, displacement people: Rivers of sorrow, rivers of change'. Sage Publications, New Delhi.

State Government Tribal Research Institute, Ranchi, in 1993, ten to twenty decimals land was given to the displaced for homestead. Some of the displaced were compensated with land, but these were wastelands. As against the assurance by the State Government and the Project Authorities before land acquisition that a job would be given to each displaced family, in actual fact, one job was given to 4-5 families clubbed together. The normal practice of the Government was to pay prevailing market rate, which was calculated as an average of registered sale prices of land of similar quality and location in the preceding three or five years. However, most land transactions are grossly undervalued to evade registration fees. As a result, compensation ranged from Rs. 7360 per acre to Rs.3200 per acre. Most of the displaced, who were not used to handling money, frittered away their cash compensation in a very short time. Before displacement, the displaced families owned land and were engaged in agriculture and animal husbandry activities, which provided them enough food grain and basic necessities. After displacement, they lost their capital resource - land linked to food security. There was no attempt to reconstitute livelihoods. Consequently, displaced families did not have enough food grain to feed themselves through the year. Post displacement, a majority of the families faced unemployment, poverty and distress. The evaluation report concludes by pointing out that, from poor, but self-sufficient and self-respecting members of a community, the displaced families had been reduced to daily wage labourers, moving from place to place in search of work.¹⁹⁸

- 2) In a study on mining and displacement problems in Odisha, it has been found that about 8117 families from 1446 villages were displaced, due to development projects in the period 1950-1993.¹⁹⁹ The aftermath of development induced displacement is that landlessness takes the form of downward mobility from large to medium land holders from medium/small to marginal farmers, and from small/marginal farmers to landless. Among mining-displaced families, 16.7 percent of tribal people and 13 percent of Dalit-displaced, became landless against 3.6 percent of the general castes. Another study shows that people displaced by mining lost their land and were forced to become wage labourers in mines, but later due to mechanization, they were the first ones to lose their jobs and become completely impoverished.²⁰⁰

¹⁹⁸ Director, Tribal Research Institute, Ranchi, May 1993. 'Evaluation Report of Heavy Engineering Corporation Displaced Persons; Unpublished report submitted to Government of Bihar. (Translated from Hindi).

¹⁹⁹ Tripathy, S.N. 'Mining and Displacement Problems in Orissa' in Nihar Ranjan Mishra and Kamal K. Misra (eds.): *Displacement and Rehabilitation Solutions for the future*. Indira Gandhi Rashtriya Manav Sangrahalaya, Bhopal, Gyan Publishing House, Bhopal.

²⁰⁰ Sarangi, Debaranjan, 2004. "Mining 'Development' and MNCs"; *Economic and Political Weekly*. Vol. 39. No. 17 (April, 24-30) pp1648-1652.

- 3) An evaluation of the condition of tribal oustees of Mahi Bajaj Sagar Project, Rajasthan, twenty years after their displacement (which took place in the 1970s), shows that the quality of facilities in the resettlement colonies were poor, with no proper provision for schooling, which adversely affected the education of children. It was observed that the displaced had limited skills and low levels of literacy and were unable to utilize compensation money properly. Since they were primarily agriculturists, they had very little knowledge of running a business or providing a service and in absence of a rehabilitation plan to address the needs of education and training, the deprived tribal people were unable to find alternative livelihood. The displaced who could not get possession of allotted agricultural land were forced to lead subsistence lives on encroached land with many of them forced to migrate to nearby towns as low skilled labourers after Kharif season.²⁰¹

- 4) Parasuraman, in his research study on displacement due to Bolani Iron Ore Mines in Keonjhar district of Orissa, describes the pre-displacement situation in the villages of Bolani, Champua and Balagoda as being thinly populated tribal villages.²⁰² Every household owned land, surviving on cultivating coarse cereals and millets, rearing cows, goats and bullocks and depending on forest for fruits, Mahua trees for liquor and small game for their protein requirements. They were self-sufficient because they had access to alternative sources of production. As in other cases of acquisition, excess land of 1320 hectares was acquired whereas only 500 acres was actually utilized for mining, township etc. Deprived of their resources, the displaced cleared thick forests for cultivation; had they not done this, the tribals ousted would have been in a worse position. All households who lost land to mines were compensated with one job per family. Those who lost land to Public Works or Railways only got cash compensation. Out of the 218 tribal households, 180 were offered employment in mines. But the living and working conditions in the mines was different from the tribal way of life and consequently, over a period of time, many displaced lost the mining jobs to non- tribal migrant workers from outside. Moreover, those managing mines did not understand the tribal way of life, their cultural beliefs and customs and made the tribals displaced, feel unwanted. Mining activities led to environmental degradation, deforestation, pollution of river and decrease in soil fertility. Tribal people lost disproportionately, due not only to loss of land but their habitat for which they were not prepared by training and psychological mentoring for the transition from agriculture to mine-related employment. There was no provision for land and the alternative jobs provided did not suit them. The displaced have

²⁰¹ Sekhar, B. 1995 'The oustees of Mahi Bajaj Sagar Project: Twenty years After' in Hari Mohan (ed) 'The resettlement of project affected people' 1995. HCM Rajasthan State Institute of Public Administration, Jaipur.

²⁰² Parasuraman, S (1999).

become strangers in their own land and have nowhere to go, following the destruction of their forest-based habitat and livelihood system.

- 5) A case study of displacement caused by the Sardar Sarovar dam in Madhya Pradesh focused on problems faced by the Project Affected Families of the Sardar Sarovar Project (SSP) in Madhya Pradesh, after the dam height was raised to 119 metres by June 2006. Out of a total of 245 villages in the Submergence Zone, 193 villages are in Madhya Pradesh, 33 in Maharashtra and 19 in Gujarat.²⁰³ The study emphasises that India is a signatory to ILO Conventions 107 and 169 on the rights of indigenous and tribal peoples. Article 16 of ILO 169 states: “Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent.” Where a return to the traditional lands is not possible in the future, Governments must provide “lands of quality and legal status at least equal to that of the lands previously occupied by them.” However, the finding of the field study was that Gram Sabhas had not been formally consulted before notifications under the LAA, 1894, were issued; few attempts were made to inform the largely illiterate tribal populations about their rights as stated in the NWDT Award; and the option of ‘land for land’ within Madhya Pradesh was never formally communicated to the Gram Sabhas.

The survey based on 20 R&R sites indicated that only 344 families were actually living in the R&R sites prepared for them. The survey found almost all the sites to be “very poor”. The Government apparently bought 1636.9 hectares (4141.4 acres) of mainly black cotton soil for 86 R&R sites, most of which are totally unsuitable for building houses. The study recommended that all the adult sons, unmarried adult daughters, widows, divorcees and abandoned wives be treated as separate PAPs.

The study found that most Gram Sabhas in the 171 villages had held meetings and written letters to the Madhya Pradesh Government, but received no response. Only when writ petitions were filed in the Supreme Court for villages like Picchodi and Jalsindhi, were judgments made in their favour.

- 6) Another study of R&R in Gujarat of the Narmada Project reveals that the reason for defective R&R programme and policies was because implementation of R&R depends on a bureaucracy who has prejudices and biases against tribal people and lack of understanding of their society. The

²⁰³ *Fernandes, Denzil, Roy, Prodipto, Sinha, Archana, Sebak, Dillip K., Roy, Joya (2007) Submergence of Justice, New Delhi: Indian Social Institute.*

findings were that there was no consultation with displaced and project affected people, lack of communication, cultural differences were disregarded, faulty land–compensation procedures that did not take into consideration rights of tribal DPs/PAPs and added to this fraud and corruption. The study also found cases of coercion and human rights violations, where people were forced to leave and stay at resettlement locations. False promises were made but once the tribal people shifted, Government officials avoided them and there was absence of a system to address grievances and complaints.²⁰⁴

The above case studies are examples of R&R which failed to provide alternative land and sustainable livelihood, leading to pauperisation of tribal DPs/PAPs. Further, these are examples of tardy implementation, of unfulfilled promises and violation of laws and rules by the very machinery expected to protect the interest of marginalised displaced such as tribals. The studies also highlight the lack of managerial capacity in the State to implement R&R and incapability to plan imaginative rehabilitation plans. It reflects the lack of commitment on the part of R&R machinery, which did not recognise the fact that rehabilitation is a continuous process and after taking possession of acquired land, they left the tribal DPs/PAPs to fend for themselves.

Loss of status of women after displacement

Women in tribal societies, have a relative equal status on par with their men when compared with neighbouring caste societies. Prior to displacement, women belonging to the project-affected villages were actively participating in household work, such as cooking, child rearing and collecting of Non-Timber Forest Produce (NTFP) and firewood. However, in resettlement colonies, adverse conditions force adult and young women to go out in search of work with a view to earn and support their families, due to loss of permanent income sources of land and forest.

Parasuraman discusses the impact of displacement on the social and economic condition of women by different development projects, where it was found that loss of access to traditional sources of livelihood, land, forest, river, pasture, cattle, etc. marginalizes women in the labour force.²⁰⁵ It is only when land and other sources are replaced that women at least partially regain their economic status. Under R&R policies, there is marked gender disparity as women members of the family such as adult unmarried daughters, widows, deserted divorcees have not been considered as a separate family. Women are traumatized due to loss of resources and break up of family and social networks and there is no strategy to address these adverse impacts.²⁰⁶

²⁰⁴ Bhatia, Bela. 2000. 'Forced evictions in the Narmada Valley' in Dreze, Jean et al 'The Dam and the Nation: Displacement and Resettlement in the Narmada Valley'. Oxford University Press. New Delhi, 2000.

²⁰⁵ Parasuraman, S. 1999; Parasuraman, S. 1996. 'Development projects, displacement and outcomes for displaced: two case studies. EPW, xxxi (24), 1529- 1532).

²⁰⁶ Saxena, K.B. (2009)

Traditionally, tribal areas had a better sex-ratio than urban areas, but now, there is a decline in the sex ratio of tribal women in areas around development projects and areas facing degradation of CPR forests in Jharkhand.²⁰⁷ This is disquieting, as it reflects the drop in status of women in the tribal community.

Deterioration of health

Almost all the R&R colonies lack proper public health facilities, protected drinking water, marketing and transportation. Due to unhygienic conditions, health is a major problem of displaced tribal people, who are affected by various diseases such as malaria, typhoid, viral fevers, diarrhoea, cholera, skin diseases and jaundice. In mining projects, resettlement sites are situated close to mining operations, which result in respiratory diseases. Ill-health causes them to spend most of their earnings towards allopathic medical treatment, due to non-availability of herbal medicines.

Disregard for Right to Livelihood: Adverse integration

Planning Commission Five Year Plan documents, NFHS and NSSO data clearly reveal that, over the years, there have been poor human development indicators in regions with high concentration of tribal people. As a consequence of poverty, illiteracy and lack of skills, tribal people have not been able to take advantage of employment opportunities created by development projects. The State and the corporate sector have neglected investment in skill/technical training of development-induced-displaced tribal communities. There was no provision or attempt to provide jobs or livelihood opportunities, as emphasis was on monetary compensation. Moreover, research studies also show that, due to neglect of children and youth by not providing them with education and skills, they are worse-off when the head of the family retires as they have lost their land which was passed on from generation to generation.

Diverse research studies have revealed lack of basic civic amenities in rehabilitation sites, absence of land or poor quality of land settled, and lack of employment avenues, results in stark decrease in standard of living after displacement and forces the displaced to migrate. Research studies show many have been forced to take up menial jobs and have become drifting agricultural and industrial migrant labourers. The work is commonly poorly paid and insecure and it affects their self-esteem and identity, but they are forced to take up such work for survival.

Development Projects have failed to create employment opportunities for Tribal DPs/PAPs instead it has led to unemployment and forced migration.

Occupational change

An analysis of decadal changes in access to cultivated land among Scheduled Tribes of four States with substantial tribal population, namely Chhattisgarh, Madhya

²⁰⁷ Mullick, Samar Bosu. 2013 'The status of indigenous women and land rights in Jharkhand' in Govind Kelkar and Krishnaraj (eds) 'Women, land and power in Asia'. New Delhi. Routledge. 2013

Pradesh, Andhra Pradesh and Jharkhand, indicates increasing landlessness amongst tribal households. The percentage of marginal holdings below one hectare has shown a marked increase in all the four States. This indicates that medium-size land holdings are getting fragmented. It is significant that Chhattisgarh and Madhya Pradesh have the highest rate of diversion of forest lands for non-forest purposes, e.g. mining. In Madhya Pradesh (including Chhattisgarh), landlessness has increased by 23.1 percent between 2001 and 2011, and in Jharkhand by 8.2 percent between 2005 and 2011.

Even though there is a general all-India increase in the total work participation rate for Scheduled Tribes, it is largely the result of increasing rates of marginal rural and urban work, especially among tribal women. The numbers of tribal cultivators has declined by more than 10 percent in the four states, except Odisha where rate of decline is less than the all India average. The rate of decline of female cultivators in several areas is higher than males, which shows that female-headed households are more vulnerable. In the States of Odisha and Jharkhand, there is a sharp rise in male and female rural 'other workers' due to mining and construction work in rural areas. Thus, the occupational status of Scheduled Tribes is now changing from farmer to rural and urban worker.²⁰⁸

This calls for a comprehensive strategy encompassing the following: restoring tribal land, preventing land alienation, giving priority to Scheduled Tribes in settlement of ceiling surplus and wasteland, support to small and marginal tribal farmers for taking up high-value horticulture etc., and skill development to reap the benefits of growth in labour-intensive manufacturing sector.

Impoverishment of Tribal DPs/PAPs adds to problem of alleviating poverty

The loss of land and CPR resources without adequate recompense has led to pauperization of tribal DPs/PAPs, adding to the problem of poverty in the country. The poverty ratios for Scheduled Tribes are significantly higher as compared to general population in the year 1999-2000. As against 27 per cent of all population living below the poverty line in the rural areas, 45.86 per cent of Scheduled Tribe population lived below the poverty line. There are large variations in the proportion of ST population living below the poverty line across the States. The Twelfth Plan Document Volume III ('Social Inclusion', pg.229) states that, during the period, 1993-94 to 2004-05, the share of ST among the poor in the country increased from 15.83 to 20.49 per cent. It is ironic that 'development' projects have added to the problem of unemployment and poverty in tribal regions.

Decline in Percentage of Tribal Population: Loss of identity

Development projects, which have displaced tribal people, have opened up tribal areas, leading to influx of people from outside the tribal region seeking employment

²⁰⁸ Archana Prasad, 'Structural Transformations - Evidence from some 'least developed' States' Yojana, January 2014.

in industry, mines, transport, Government service, trade and commerce, etc. This has resulted in increasing urbanization of tribal areas and the large influx of immigrants from outside gathered the benefits from development, while on the other hand, the condition of tribal people became worse. Consequently, the percentage of tribal population in these areas declined. For example, in Bihar, the percentage of tribal population declined from 10.7 percent in 1951 to 7.66 percent in 1981. In Dhanbad district, the decline was from 15.65 percent in 1951 to 9.12 percent in 1981; similarly, in Santhal Pargana, the decline was from 44.6 percent to 36.80 percent during the same period.²⁰⁹ This trend continues in Jharkhand in recent decades, as observed in Ranchi district (falling from 43.56 percent in 1991 to 35.76 percent in 2011). Decrease in proportion of tribal population is evident in urbanized areas as well as rural districts, where involuntary displacement and forced migration have occurred and where urbanization and development has led to inflow of outsiders.

Tribal people find themselves placed in a subordinate position to outsiders in their own homeland and have developed a negative identity. Tribal society is egalitarian, but they now have to deal with a hierarchical and exploitative society. Tribal people faced with influx of immigrants, fear loss of identity, land, destruction of forests, jobs and losing political control.

²⁰⁹ Xaxa, V. 2012. 'Tribes and development: Retrospect and prospect', in Nathan & Xaxa (eds.) 'Social Exclusion and Adverse Inclusion'. 2012. Oxford University Press. New Delhi. 2012.

8.9 Conclusion

The large body of research carried out by scholars on the extent of displacement and impoverishment of tribal people caused by compulsory acquisition of land by the State, calls into serious question the commitment or ability of the Indian State to upholding Constitutional safeguards for the protection of land and resources and welfare of tribal communities. There is dearth of data of the displaced (DPs) and project-affected people (PAPs), and official figures, wherever available, underestimate the number of DPs/PAPs. Of the estimated 60 million DPs/PAPs, about 40 per cent are tribal people, 20 per cent are Scheduled Caste and 20 per cent belong to other social groups, like OBCs. Based on available government records and estimates, researchers have estimated that people have been displaced from 25 million hectares, including 7 million hectares of forests and 6 million hectares of other CPRs. It is also estimated that only 25 per cent of all DPs have been resettled and only 21.16 per cent tribal DPs have been resettled, with a back log of 79 per cent. Further, a distinction must be made between resettlement, which is a onetime process, and comprehensive rehabilitation, which is a longer process for socio-economic reconstitution of DPs/PAPs. The new legislation ‘The Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013’, does not consider the backlog of DPs/PAPs. The magnitude of the problem and gravity of the situation has to be addressed by the State and corporate sector.

Under policy of liberalisation, the effort is to create a climate favourable to investment and this will increase demand for more land than in the past. However, this policy lacks a social thrust. Projects that displace tribal communities by transferring their resources for the development of dominant sections of society can never be development in the true sense. Disproportionately large tracts of land in excess of actual needs have been acquired and CPR diverted for infrastructure projects, mines, dams, and industries, mainly in tribal regions. This is done for a pittance, without much thought to sharing the fruits of development with weaker sections, particularly tribal DPs/PAPs and the tribal community at large. A reason for their neglect is that they do not have a strong political voice. Studies have shown that powerful social groups with political clout are able to get much better R&R assistance as compared to tribal DPs/PAPs. Left-Wing Extremists have tried to fill this vacuum in tribal areas and channel tribal disaffection against massive land alienation and displacement. The State needs to send out a strong message to all its instrumentalities as well as the corporate sector that there shall be no forcible and extortionist land acquisition in tribal areas, and that wherever tribal land has to be acquired of necessity, it must be preceded by comprehensive R&R within a framework of full and free consultation and tribal participation in development and its benefits in the area of displacement.

8.10 Recommendations

1. Serious effort is required by the State to minimize displacement. There should be a rights- based approach to comprehensive rehabilitation for socio-economic reconstitution of victims of development, including for the backlog of displaced.
2. The problem is with the expansive interpretation that has been given to the doctrine of ‘eminent domain’ by political and managerial elites. In this context, it is essential that the whole process of displacement should be democratic and rights of tribal communities to say ‘no’ to acquisition of their land and to access and manage forests and other CPRs, be recognised.
3. The new legislation, ‘The Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013, is progressive in the sense that it is the first to legally mandate rehabilitation of PAPs. However, it fails to address the need for minimizing of acquisition of land and resources. This is not surprising, since the objective of the Act, which seeks to address concerns of those whose livelihoods are affected, simultaneously aims at facilitating land acquisition for industrialization and urbanization. This is in keeping with the broader liberalization policies. Such policies will result in more displacement in Central India for mining and in the Northeast for dams.
 - The 2013 Act already has a provision for safeguarding food security and states that multi-crop irrigated land will not be acquired, except as a last resort measure. Further, the State Government is to set limits on the acquisition of such land under this law. States are also required to set a limit on the area of agricultural land that can be acquired in any given district. However, there is no mention of the need to protect tribal land and community resources. Hence, a suitable provision is required to be incorporated in the Act, to safeguard tribal land and community resources in Scheduled Areas and disallow acquisition by a non-tribal, including private companies.
 - The definition of ‘public purpose’ in the new law is very wide and will only lead to greater acquisition and displacement in Scheduled Areas. The exercise of ‘eminent domain’ and definition of ‘public purpose’ should be severely limited.
 - Government agencies acquiring land with the ultimate purpose to transfer it to private companies for stated public purpose, should be kept outside the ambit of the new law, as the Public-Private Partnership mode of acquiring land is simply a backdoor method of alienating land

in violation of the Constitutional provision to prohibit or restrict transfer of tribal land to non-tribals in Scheduled Areas.

- It is recommended that, as directed in the landmark Samatha judgment and the PESA Act, every Gram Sabha should have the power to prevent alienation of tribal land and further that minerals should be exploited by tribal people themselves. The stringent provisions of the amended Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, should be adopted by other States, particularly the provision that facilitates the formation of Registered Scheduled Tribe Co-operative Societies, which could take up mining activities in Scheduled Areas. By doing so, the Samatha Judgment would hold good for all States with Scheduled Areas. It should be the responsibility of the State to facilitate the formation of cooperatives of tribal people for the above purpose.
 - Gram Sabha consent should be mandatory for acquisition of land by the Government for its own use as well.
 - The Act does not have a provision to the effect that exploitation of natural resources in Scheduled Areas must be with the consent of the Gram Sabha. This should be rectified.
4. In the interest of weaker sections such as tribal communities, the threshold should be kept very low and R&R provisions of the new law should apply to all cases.
5. There is plenty of unutilized tribal land available with Central/State/PSUs, and Central/State Governments which is not being used for the purpose for which it was acquired. Governments should be legally mandated to return such land to the original landowner/successors or use the same for resettlement of displaced tribals. This should not be left to the discretion of the State Government. One example of this is of HEC, Hatia, Ranchi, where excess tribal land had been acquired and people are agitating for the return of the land, but the State wishes to utilize it for other purposes. In such cases, land should be returned to the original displaced families.

The Vijay Kelkar Committee on Fiscal Consolidation (2012) said,

“Over the next 24-36 months, there is yet another policy instrument for raising resources for development and that is monetizing the government’s unutilized and under-utilized land resources. These resources can finance infrastructure needs, particularly in urban areas. Such a policy has been effectively utilized in many countries including USA, France, Canada, Australia and China. For monetizing land resources, the potential is considerable given the under-utilized prime lands of

*PSUs, Port Trusts, Railways, etc. Toward this, we recommend setting up of a group to work out the policy framework and institutional modalities.*²¹⁰

The suggestion of the Vijay Kelkar Committee on Fiscal Consolidation (2012) that “unutilized and under-utilized land resources” be used for “raising resources” to “finance infrastructure needs particularly in urban areas” is against the purpose and intent of the land acquisition law and should be roundly rejected, and unused land should be returned to the loser of the land and to the community.

6. There has been inadequate recognition at the policy level that land represents an inalienable resource, passed on from generation to generation in tribal communities, who otherwise have no education and skill development. Studies have documented that those DPs who got jobs in lieu of land and whose children did not receive education or training were worse off after the job-holder retired from service. It is recommended that the objective of R&R should be to ensure that the socio-economic status of tribal DPs/PAPs after displacement, should improve positively rather than deteriorate further. Loss of land and CPR can be compensated only by proper R&R which envisages restoration of livelihoods, health and education facilities and skill development for the whole family and community of tribal DPs/PAPs. There should be provision of ‘land for land’, in acquisition of tribal lands. Compensatory land provided must be made cultivable with irrigation and agricultural inputs. Rehabilitation should be treated as a continuous process to be monitored by the Project Authority and State until the alternative livelihood becomes economically viable. They must be given a stake in the assets and economic activities being created on their acquired land and CPRs (for example, land in command area, irrigation of tribal land in the vicinity, jobs in industries, or shops/jobs in industrial projects/townships). An expanding economy, particularly expanding labour-intensive manufacturing sector together with adequate emphasis on health, education and skill development, hold the key to humane R&R.

7. The 2013 Act is weak in matters relating to skill development and provision for livelihood for DPs/PAPs. During a meeting between the HLC and representatives of displaced tribal people in Bastar, Chhattisgarh, anger was expressed at the non-fulfillment of promises to give jobs to the educated displaced persons. They were unhappy with the cash allowance being given in lieu of jobs. The official response, that there were not enough jobs to accommodate all displaced people, did not satisfy the aggrieved parties. A

²¹⁰ Report available at http://finmin.nic.in/reports/Kelkar_Committee_Report.pdf

sum of two thousand rupees per month per family as annuity for 20 years, with appropriate index for inflation in lieu of jobs, as stipulated in the new Act, is too low. Clearly, more has to be done for skill development and creation of alternative livelihoods. One of the ways to ensure that jobs are provided to displaced people, including tribal families, is to create a State level/National-level Virtual Employment Exchange with complete data of age, sex, educational qualifications, and skill-set of persons displaced in the past, present and in near future, for providing them employment and/or preparing them for employment/self-employment. Global best practices could be studied for providing alternative livelihoods, which could include imaginative self-employment schemes with backward and forward linkages to be provided by Project Authorities.

8. Research studies stress that gross undervaluation of losses, replacement value of loss and costs of resettlement, has led to inadequate financing of R&R and externalization of costs of R&R to the displaced and the future generations. The new law has expanded the definition of ‘displaced’ to include project-affected persons; however, care has to be taken to ensure that all genuine cases are included and compensation is properly computed.
 - In computing losses, it has to be recognized that there are instances of tribal DPs who do not have documents to support their genuine claim but who base their ownership rights on oral tradition. Such claims should not be rejected.
 - Forest rights have been covered under the Forest Rights Act, but other CPRs such as Government land and Panchayat land has not been covered by any legislation. This needs to be rectified. Moreover, survey by Government is incomplete – as a consequence, community land is recorded as Government land and tribal communities, primarily tribes who practice shifting cultivation on such land, are denied compensation. This problem needs to be addressed by measures to include such cases under R&R provision.
 - Women require special consideration and affirmative action. Widows and unmarried adult daughters should be recognized as a separate unit.
 - The principle for working out land compensation has been spelt out. For all other assets, compensation should be based on replacement value or net present value of assets lost/destroyed.
 - While preparing the project cost estimates, the full cost for R&R should be included, and no attempt should be made to reduce costs for a favourable cost-benefit ratio.
 - The rehabilitation package and process should take into account, the cultural displacement, and loss of customs and tradition. For tribal people, their strength is their community, and therefore, it is imperative

that they be resettled and rehabilitated as a community, if they so desire.

- Infrastructural amenities to be provided in the resettlement area have been mentioned in the new law, but provision of banking facilities has been missed out. With primary emphasis on monetary compensation, it is essential that displaced tribals, who may not have experience in handling money and understanding of the monetary economy, should be advised on handling their cash compensation. Banking facilities should be made available for keeping their money safe and credit facilities should be provided by the State (to avoid exploitation by money-lenders).
9. Land and water sources polluted by industrial and mining projects in tribal regions require attention and the onus for taking corrective measures should be on the Project Authorities. The schemes of the Government could be utilized to treat polluted land and water resources of tribal people.
 10. The role of the Governor is crucial for protecting land, community assets, culture and traditional institutions of tribal people and to ensure that they are treated fairly. This role extends to ensuring socio-economic reconstitution of tribal DPs/PAPs. This raises the issue of suitability of persons who occupy the important position of Governor and other offices, such as Commissioners, Deputy Commissioners and District Magistrates, in Scheduled Areas. It is imperative that the antecedents and experience of persons be taken into consideration by the Government to check whether they can protect the interest of tribal communities and are suitable for such appointments, in view of the special role assigned to them in such States.
 11. Implementation of the new law will be difficult in the absence of resettlement and rehabilitation capacities in the local administration, local community and corporate entities. It is essential that the State and corporate sector create such capacity by introducing professional training and orientation courses for following the best R&R practices worldwide and replicating them in the Indian situation. Offering tribal people monetary compensation and making promises without attendant capacity to deliver on them will not resolve the impasse that has brought land acquisition to a standstill. Sporadic attempts by instruments of the State to use force to acquire land is unethical and unacceptable. Only a genuine and bonafide effort at comprehensive and pragmatic R&R can persuade tribal people to part with their land.
 12. The new legislation lays considerable emphasis on consultation and consent of Gram Sabhas. It is essential that the State be vigilant through adequate

monitoring mechanisms for ensuring that consent is obtained freely and every displaced person gets adequate and comprehensive R&R in lieu of land/livelihoods lost. The State must put in place a system to collect disaggregated data of DPs/PAPs for all social groups. Oversight mechanisms must be created at the District, State and Central levels, comprising officials and non-officials with proven competence, integrity and commitment to public good. There is a view that, though the new legislation has been enacted by the Centre, R&R is a State subject, which should continue. However, the Centre has a responsibility along with the states to ensure comprehensive R&R. The Central Government should decide on the monitoring mechanism to be put in place. One possibility is to establish an Authority/nodal agency with a multidisciplinary team under the Ministry of Land Resources.

13. In view of the large-scale discontent among displaced tribal people regarding poor R&R, a High-Level Fact-finding Committee/Enquiry Committee should be set up to investigate the quality of R&R in all medium and major development projects undertaken in the last fifty years in Scheduled Areas and tribal-dominated districts of States without Scheduled Areas. This Committee should be mandated to suggest ways and means to deliver justice to the displaced families, who have not received any proper rehabilitation. This is essential, in view of the fact that, the new law has not taken cognizance of the backlog of displaced people, a majority of whom are tribal people.
14. Myriad grassroot movements against exploitation of tribal people and other weaker sections hold the key to greater socio-economic justice. It would be desirable if the State recognizes this and engages with democratic grassroot movements, instead of crushing these movements.
15. Tribal people who have been displaced by conflict in Chhattisgarh and the Northeast should be rehabilitated by the State Government in their villages and provided facilities of housing, safe drinking water, health and education, skill development, electricity supply, irrigation facilities, and agricultural inputs. It is for the State to take preventive action and ensure safety and prevent tribal land alienation in such areas. During a visit of HLC to Assam, civil society groups and representatives of Autonomous Tribal Councils emphasized that influx of outsiders was a real threat to the tribal communities. They also alleged that inter-tribal conflict was being instigated by outsiders. It is the responsibility of the State Government to take measures to prevent such conflicts.

16. Under the 'Coal Bearing Areas (Acquisition and Development) Act, 1957, pattas/legal titles for houses allotted in resettlement sites are not issued to the displaced. As a result, the displaced lose their identity and are unable to access public facilities provided by the local administration, thereby facing difficulty in obtaining Caste/Tribe certificates. Further, there is no provision for payment of compensation before taking possession of land. The provision for returning land to original landholders post-mining is rarely complied with. Clearly, there is a need to make amendments in the Act.

17. Development projects have opened up tribal areas leading to influx of people from outside the tribal region, seeking employment in various sectors. All this has resulted in increasing urbanization of tribal areas and immigrants, rather than tribals, have benefited from this. Consequently, the percentage of tribal population in some Scheduled Areas has declined, although historically, these areas were almost exclusively occupied by tribal people. Hence, it is recommended that there should be no reduction in the areas declared to be Scheduled Areas as this will harm the interests of already deprived tribal communities by diminishing their space and their resources. Rather, the representation of tribal communities should be enhanced and strengthened in the politico-administrative institutions within Scheduled Areas.

18. Tribal people suffer predominantly from the phenomenon of poverty-induced migration, also known as forced migration. An analysis of the Census data shows that there has been an occupational change and the number of tribal cultivators has reduced while the number of tribal marginal workers has increased. Micro studies indicate the increase in seasonal/circulatory migration of tribal workers, which may help them to avoid starvation, but is not enough to improve their standard of living. Hence, it is recommended that:
 - The Census and National Sample Surveys should gather data on the phenomena of seasonal/circulatory migration, migration of children across social groups and poverty-induced migration.
 - Priority should be given to STs in settlement of ceiling surplus land and wasteland, investments to improve agriculture, support for high value horticulture, employment opportunities in rural areas, access to credit facilities and skill-development to rural youth for employment in labour-intensive manufacturing sector.
 - Complaints have been received that, due to seasonal migration of tribal people, they are not enumerated in the Census and therefore,

Census data is not a true reflection of tribal population. This grievance requires to be redressed.

- Apathy and incapacity of the State to implement the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, has led to exploitation of tribal migrant families. In particular, tribal women and children suffer greatly. There is a growing demand for enactment of a comprehensive Migrants Rights Legislation, which deserves serious consideration.

19. Recommendations for measures to prevent illegal land alienation of tribal land are as follows:

- In pursuance of the PESA, 1996, Land Transfer Regulations/Tenancy laws of all Schedule V Areas should be suitably amended to ensure Gram Sabha participation in the identification, investigation and restoration of lands to tribal people. Gram Sabhas require to be strengthened by State Governments to undertake these responsibilities.
- Plenary powers could be given to Gram Sabhas to fight cases of tribal land alienation collectively, as an individual tribal cannot afford to face prolonged legal battles, given their socio-economic conditions.
- The Gram Sabha should be empowered to restore the alienated land on detection, pending the long legal battle, in order to potentially discourage a prospective non-tribal buyer of land in Scheduled Areas. This needs to be legally examined.
- Care has to be taken to ensure that District Councils and State-level Council do not have powers to dissolve Gram Sabhas or to dilute the powers and functions of the Gram Sabha
- Legal loopholes and ambiguities in all Scheduled Area Land Regulations and Tenancy laws should be removed. For example, such a removal must ensure that tribal land is not transferred for purposes such as settlement of refugees, housing, etc.
- There is a provision in the Andhra Pradesh Act, wherein immovable property of tribals can be mortgaged to banks and, in case of default, the property to be sold back only to tribal people or tribal cooperative societies exclusively formed by tribal people. This provision needs to be evaluated to explore replication in other Scheduled Area States. There is an urgency in doing so to meet the financial needs of tribal youth.
- There is a presumption clause in the Andhra Pradesh Act that, until the contrary is proved, any immovable property in the Scheduled Areas and in possession of a person who is not a

member of a Scheduled Tribe shall be presumed to have been acquired by the person or his predecessors through a transfer made to him by a member of a Scheduled Tribe. This clause should be examined by other States for adoption and inclusion in their laws.

- Suitable amendments should be made in all land laws for protection of tribal land in Scheduled Area States to the effect that there should not be any time limit for restoring tribal land.
- Suitable provision should be made in land laws so as to bring all benami transfers, transfers in the names of concubines, tribal servants or others into the purview to prevent fraudulent land transfer in Scheduled Areas.
- The move to notify rural areas as urban areas in order to nullify PESA provisions should be stopped forthwith. Use of Master Plan in urban areas to alienate/displace tribal people from their land should be curbed.
- Increased investment is required to be made by State Governments to provide legal aid to tribal petitioners so that they are in a position to hire competent lawyers to fight cases. The Government must also provide legal training, literacy and awareness programs for youth and women on State and customary laws contextualized with modernity processes, with the participation of NGOs.
- Ultimately, it is the duty of State Governments, to ensure that all officials and lower-level functionaries do not connive in defrauding tribal people of their land. Regular monitoring at the State and Central levels of disposal of cases and proactive efforts for restoration of tribal land is required. It is the responsibility of the State to address the problem of contradictory judicial pronouncements that jeopardize implementation of protective land laws by removing ambiguities in all relevant laws.

9. Legal and Constitutional Issues

9.1 Introduction

This chapter presents the issues and debates concerning the implementation of the Forest Rights Act 2006, the Provisions of Panchayats (Extension to Scheduled Areas) Act 1996, some socio-economic issues relating to Particularly Vulnerable Tribal Groups (PVTGs), the use of criminal law in tribal areas, Salwa Judum, the Niyamgiri experience, matters of migration and exploitative labour.

Provisions of the Panchayat (Extension to Scheduled Areas) Act 1996 (PESA) has made fundamental changes in the matter of autonomy of tribal communities in Fifth Schedule Areas²¹¹. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) has, for the first time since the colonial state took over control and commercial interest in forests, recognized the relationship between forest dwelling communities and the forest. Both these legislations are premised on setting right historical wrongs that had caused processes of marginalisation, impoverishment and increased vulnerability of tribal and forest dependent communities. The committee studied the implications of these laws on the relationship between tribals, land, forest, other resources and the state. The conflict between a model of development that seeks to exploit or divert mineral and forest resources, often through the agency of companies, and the autonomy under PESA and the recognition of rights in the FRA, was specially in focus. The experience with autonomy in the Niyamgiri hills has acquired iconic status. The state practice encapsulated in Salwa Judum came up before the committee. A noticeable feature was the encounter of tribals with criminal law, especially in places that were seen as 'naxal affected', and in places, where mining and development projects have been proposed. The persistence of laws such as the Habitual Offenders Act and Anti-Beggary laws and their effect on De-notified Tribes is a matter that came up before the committee. Bonded labour and trafficking are facets of forms of servitude that continue into the present.

9.2 Forest Rights Act

The enactment of the FRA has been a very important move in taking away the burden of illegality from the shoulders of tribals, and forest dwelling and dependent communities. The Indian Forest Act, 1927 and its predecessor Act of 1878 vested control over the forest resources in the state. Forest area covers 23 percent of land mass and over the years, forest communities have been treated as encroachers and their activities in forest areas as 'forest offences'.

²¹¹ The legal, constitutional and administrative issues pertaining to Sixth Schedule Areas have been dealt with in Chapter 4.

9.2.1 Implementation of the FRA

Implementation of the FRA has been weak. In 2010, the Ministry of Tribal Affairs (MoTA) and Ministry of Environment and Forests jointly constituted a committee to study the factors that aid or impede the implementation of the law and recommend necessary policy changes (hereinafter ‘2010 Joint Committee Report’).²¹² It appears that many of their findings persist and recommendations remain relevant. These include:

- The implementation of the FRA has been poor, and therefore it’s potential to achieve livelihood security and changes in forest governance along with strengthening of forest conservation, has hardly been achieved.²¹³
- There have been serious flaws in many states relating to the constitution of the Forest Rights Committee (FRC) at the grassroots level which has the crucial role of assisting the Gram Sabha (GS) in determining the claims from individuals by receiving, consolidating and verifying them on the ground.²¹⁴
- Several states have utilized GPS technology for plot delineation. It is recommended that a special set of guidelines need to be worked out for the proper use of spatial technology in the delineation, location, and status verification of claims filed, to ensure reliability, objectivity and transparency.²¹⁵
- The FRA stipulates that forest-dwelling Scheduled Tribes and Other Traditional Forest Dwellers (OTFDs) are not to be evicted or removed from forest land under their occupation till the process of recognition and verification of their rights is complete. The committee members found that this provision of the Act has been violated such as in Thane, Maharashtra where FRA claimants were evicted even as their claims were pending with no notice.²¹⁶
- The relocation from Protected Areas including Tiger Reserves without having completed the procedures under the FRA was identified as a gross violation of the FRA.²¹⁷
- Though the FRA does not and should not provide any deadline for completion of the process, states should expedite recognition of rights within an

²¹² Manthan, *Report of the National Committee on National Forest Rights Act, 2010 (A Joint Committee of MoEF and MoTA, Government of India)*.

²¹³ *Ibid* at p.10

²¹⁴ *Ibid* at p.11

²¹⁵ *Ibid* at p.11

²¹⁶ *Ibid* at p.12, 50.

²¹⁷ *Ibid* at p.129

appropriate time frame which is to be decided in consultation with the forest dwellers and civil society, so that governments do not slacken off on implementation.²¹⁸

- The MoTA should issue a clarification that OTFDs as defined under the FRA are all those who can prove seventy five years of residence in the area (not necessarily on the plot being claimed), and dependence on the forest land as of December, 2005. The MoTA should also clarify what kinds of evidences may be used for such proof and how these are to be made available to the villagers. MoTA should also clarify that no disqualifications on the basis of possession of additional revenue land or jobs, or location of residence on revenue land, etc. are permissible under the FRA.²¹⁹
- State governments should review their State Level Management Committees, District Level Committees, and Sub-Divisional Level Committees, regarding their composition, functioning, public interface, and transparency, and issue directions for necessary correctives in each of these institutions.
- Most states have concentrated almost entirely on implementing the provisions for individual forest rights (IFR).²²⁰
- Claims are being rejected without assigning reasons, or based on wrong interpretation of the ‘OTFD’ definition and the ‘dependence’ clause, or simply for lack of evidence or ‘absence of GPS survey’ (lacunae which only require the claim to be referred back to the lower-level body), or because the land is wrongly considered as ‘not forest land’, or because only forest offence receipts are considered as adequate evidence. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated.²²¹
- Section 3 (1) (m) of the FRA, regarding the rights of persons illegally displaced or evicted by development projects without proper compensation, has not been implemented at all.²²²

The Committee finds that these problems persist. While on one hand, we see an absence of the procedure stipulated in the FRA, on the other, strict adherence to conditions not even required or permitted under the Act are used to disregard claims.

²¹⁸ *Ibid* at p.13

²¹⁹ *Ibid* at p.13

²²⁰ *Ibid* at p.14

²²¹ *Ibid* at p.14

²²² *Ibid* at p.15

The term “individual forest rights” isn’t actually used in the FRA, it has found its way to official records and common parlance to denote rights to forest land with individual tenure. Section 3 of the Act includes: “right to hold and live in the forest land under the individual and common occupation for habitation or for self- cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other Traditional Forest Dwellers”.

According to data with the MoTA, the status of individual and community right claims under the FRA, as of 31st January 2014, is as follows:

Table 9.1: FRA claims status as of January 31, 2014²²³

S.No.	State	No. of Claims Received	No. of titles Distributed	No. of claims rejected	Total No of Claims Disposed
1.	Andhra Pradesh	4,11,012 (4,00,053 individual; 10,959 community)	1,69,370 (1,67,263 individual; 2,107 community)	1,65,466	3, 34,836
2.	Bihar	2,930	28	1,644	1,672
3.	Chhattisgarh	7,56,062	3,06,184	4,23,149	7,29,333
4.	Jharkhand	42,003	15,296	16,958	32,254
5.	Madhya Pradesh	4,98,346 (4,80,551 individual; 17,795 community)	1,83,608 (1,72,539 Individual ; 11,069 community) and 9,172 ready	2,78,887 (ST-40.90%) (OTD-96.26%)	4, 62,495
6.	Maharashtra	3,46,230 (3,41,085 individual; 5,145 community)	1,03,797 (1,01,426 individual; 2,371 community)	2,33,720 (2,31,641 individual; 2,079 community)	3, 37,517
7.	Odisha	5,45,279 (5,34,275 individual; 11,004 community)	3,28,580 distributed (3,25,449 Individual; 3,131 community)	1,39,519 (1,38,905 individual ; 614 community)	4, 66,434
8.	Uttar Pradesh	92,433 (91,298 individual; 1,135 community)	17,705 (16,891 individual; 814 community)	73,028	90,733
9.	West Bengal	1,37,278 (1,29,454 individual; 7,824 community)	29,852 (29,744 individual ; 108 community; 2,969 ready)	79,891	1, 09,743
Total		28,31,573 (27,77,711 individual; 53,862 community)	11,54,420 (11,34,820 Individual; 19,600 community)	14,12,262	25,66,682

Source: www.tribal.gov.in

While looking at these figures, it must be kept in mind, that there is generally a gap between the land claimed and the actual extent of the titles issued to the claimant. Field studies reveal that although revenue officials generally demarcate all the land as

²²³ www.tribal.gov.in, available at

<http://tribal.nic.in/WriteReadData/CMS/Documents/201402260212590468750MPRforthemonthofJanuary2014.pdf>.

per the application of the claimants, titles issued to them are for lesser areas than their actual occupation and claims. As the table demonstrates, implementation has been low and where claims have been filed there has been a high rate of rejection of claims. Also, most state governments have focused their attention on individual claims, and not community right claims.

In addition to the findings from the Joint Committee Report, 2010, we find that:

- A common ground of rejection is that the person is not a Scheduled Tribe (ST) even though the FRA unambiguously states that rights to forest land are available to “Scheduled Tribe or other Traditional Forest Dweller” Claims are often rejected due to absence of ST community certificates.²²⁴ OTFD claims in Andhra Pradesh have largely not been entertained due to lack of evidence.²²⁵ In Odisha, OTFD’s have mainly been discouraged from filing claims and most of their claims have been rejected at the Gram Sabha level itself or not accepted by the FRC.²²⁶ Claims have also been rejected due to inability to prove plot cultivation for seventy five years prior to 13th December 2005.²²⁷
- There are reports of claims being rejected on the ground that the claimed land is ‘disputed’. As per SCSTRTI Report, 2013: *“In Chhattisgarh, the issue of Ghas zameen (revenue land) is disputed by villagers in many sites which they consider as narangikshetra, something that is popularly known as ‘orange areas’ in government parlance, an area, ownership of which is disputed between the forest and revenue department. It must be noted that these orange areas are recorded in records of both forest and revenue department and so long as the land is recorded as forest land, it comes under the ambit of the FRA. Thus, denying rights over such lands is in violation of the law”*²²⁸ A dispute between two departments cannot be a reason for denying people their due under the law.

9.2.2 Community Forest Rights

The FRA recognizes various community forest rights which could potentially operate as a powerful, and meaningful, way for forest dwelling communities to protect their way of life. Till as late as 2012, however, these rights were almost entirely ignored. Most often, they were confused with the Section 3(2) provisions which provide communities with education and health facilities and connectivity when there was

²²⁴ Joint Committee Report, at page 75; Ministry of Tribal Affairs, 2012 Regional Consultations on Implementation of the Forest Rights Act: Amendments in the Rules and the Way Forward, at page 11.

²²⁵ SCSTRTI, National Research Study of Implementation of FRA in Neighboring States of Odisha, 2013 at page 322-323.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ SCSTRTI, National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 at p, 209.

diversion of forest land for non-forest purposes.²²⁹

Despite very poor implementation of community rights, the Joint Committee Report, 2010 was quick to caution that “the current status of community claims is not indicative of the potential of such claims. If the various shortcomings in implementation described below are removed, the claims could spread to several million hectares in the next few years.”²³⁰

It is clear that unless enforcement of CFR is a community driven process, its implementation will be incomplete. When it comes to community rights awareness among claimants and FRC members is still abysmally low, even when compared to awareness regarding individual claims. This is corroborated by surveys conducted on the Status of level of Awareness amongst Multiple Stakeholders (percent) by SCSTRTI in 2013.²³¹

In many cases, the Forest Department is actively impeding the process of CFR rights and recognition. For example, as per a recent study conducted, 27 CFR titles have been claimed and even conferred in Sarguja district of Madhya Pradesh but the Forest Department does not recognize them.²³²

The general misunderstanding is that FRA is a “scheme for tribals” to the exclusion of OTFDs and therefore, CFR titles will be granted to “Scheduled Tribes only” villages. Right from its first phase of implementation, it is noted that district administrations refuses to accept oral evidence from elders although it is allowed as per the Act.²³³ Authorities are also incorrectly requiring proof of “occupation” (and not proof of “residence” as stipulated under the FRA and as clarified by the guidelines issued by MoTA) of forest land for three generations prior to 13th December, 2005.²³⁴ In the Nayagarh district of Odisha, CFRs have not been recognized in villages with a mixed population of Scheduled Tribes and OTFDs. In Jharkhand as well, 73 claims out of

²²⁹ Desor, S. (ed.), 2013, *Community Forest Rights under Forest Rights Act: Citizens' Report 2013*, Kalpavriksh, Pune and Vasundhara, Bhubaneswar with Oxfam India, Delhi, on behalf of Community Forest Rights Learning and Advocacy Process, at page 99, 115 stating “In regions like Chhattisgarh, Rajasthan, Dadra and Nagar Haveli, Jharkhand and parts of Maharashtra, such as Raigad district, rights under section 3(2) of FRA (i.e. public utilities) are predominantly - and mistakenly - being granted as CFRs”; see also SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013* at page 216 that “In Odisha, the thrust on recognizing developmental rights as community rights was similar as in the other two states in the initial phases based on similar set of confusion. However, in 2010, the ST & SC Development department of Odisha issued exclusive FAQs on determination and recognition of community forest rights in order to eliminate the confusion persisting at ground level with regard to Community Forest Rights and Developmental facilities under section 3(2) of the Act. The said departmental order mentions that “most of the reporting of the recognition of Community Forest Rights so far has actually been for the diversion of forestland for developmental facilities provided under the section 3(2) of the Act. The process for diversion of forest land for developmental facilities under section 3(2) of the Act is totally different from the recognition of Community Forest Rights as envisaged in section 3(1) of the Act.”

²³⁰ Joint Committee Report, at page 86

²³¹ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013* (Draft Report at page 225.

²³² SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013* (Draft Report at page 216.

²³³ Desor, S. (ed.), 2013, at page 66.

²³⁴ A Report of the National Level Public Hearing on Community Forest Rights, December 14, 2013, pg. 9.

147 claims filed by OTFDs, have been rejected (i.e. 50 percent rejection).²³⁵

In Chhattisgarh, there are continuing reports of Forest Rights Committees (FRCs) being constituted at Panchayat level overseeing several villages.²³⁶ In most cases, members of such FRCs are not aware of their membership and their duties. Lack of awareness, information and training on filing CFR claims in such FRCs prevents interested communities from filing claims. There are also reports of such FRCs being manipulated by village elites leading to conflicts.²³⁷

In Tamil Nadu, it is the Court that has restricted recognition of these rights. The Madras High Court order²³⁸ dated 30th April 2008 restricted the issuance of titles under Section 3(1) unless approved by the Court. The order clarified that the process of verification of the claim shall continue but even so implementing authorities interpreted the order to mean that no action is to be taken on the claims, including the process of recognition of claims, without the High Court order being vacated.²³⁹ On 2nd September 2008, the Court clarified that the process of identity and recognition may go on and only the final decision shall not be taken without leave of the Court.²⁴⁰

Exercise of rights over the Minor Forest Produce (MFP), a community right under the FRA, remains a big challenge across the states. There is no institutional mechanism developed so far to support the rights holders in the process of exercising the MFP rights particularly in the disposal and marketing of the produce.²⁴¹ The problem is seen more in case of nationalized produce like Bamboo²⁴² and Tendu leaves.²⁴³ Apart from these challenges in the trade of MFP, the non-commercial values of such produce are of critical importance to the lives of forest dwelling communities.

²³⁵ See detailed case studies in Desor, S. (ed.), 2013 at page 36.

²³⁶ Recommendations of the communities as documented at the National Public Hearing, December 2013, organized by Community Forest Rights Learning and Advocacy Process (CFR-LA) and Adivasi Janjati Adhikar Manch (AJAM) at page 5.

²³⁷ Recommendations of the communities as documented at the National Public Hearing, December 2013, organized by Community Forest Rights Learning and Advocacy Process (CFR-LA) and Adivasi Janjati Adhikar Manch (AJAM) at page 5.

²³⁸ V. Sambasivam v. Government of India, Writ Petition no. 4533/2002, Madras High Court, dated 30th April 2008.

²³⁹ Desor, S. (ed), 2013, Community Forest Rights under Forest Rights Act: Citizens' Report 2013, Kalpavriksh, Pune and Vasundhara, Bhubaneswar with Oxfam India, Delhi, on behalf of Community Forest Rights Learning and Advocacy Process; A Report Of The National Level Public Hearing On Community Forest Rights, 14th December, 2013, organized by Community Forest Rights Learning and Advocacy Process (CFR-LA) and Adivasi Janjati Adhikar Manch (AJAM) at page 5.

²⁴⁰ See Order dated 2.9.2008 passed by Orissa High Court in WP 4933/2008; Order dated 12.8.2009 passed by Orissa High Court in WP 4933/2008)

²⁴¹ Desor, S. (ed), 2013, Community Forest Rights under Forest Rights Act: Citizens' Report 2013, Kalpavriksh, Pune and Vasundhara, Bhubaneswar with Oxfam India, Delhi, on behalf of Community Forest Rights Learning and Advocacy Process at page 90, 102, 109.

²⁴² Desor, S. (ed), 2013, Community Forest Rights under Forest Rights Act: Citizens' Report 2013, Kalpavriksh, Pune and Vasundhara, Bhubaneswar with Oxfam India, Delhi, on behalf of Community Forest Rights Learning and Advocacy Process at page 74, 82.

²⁴³ Case study from Narigaon, Odisha on deregulation of Kendu leaves trade in the context of Forest Rights Act (Draft), Vasundhara (2013).

9.2.3 Joint Forest Management

In areas where Joint Forest Management (JFM) was in practice, there were complaints that the FRA was sought to be kept out.²⁴⁴ Further, attempts were to convert the village forest committees set up into forest rights committees under the FRA, which is not in consonance with the law.

In Andhra Pradesh, the SCSTRTI study notes that “community forest rights were generally understood as rights over areas of Vana Samrakhyan Samiti (VSS), an institution created by the Forest Department under the Joint Forest Management Program.²⁴⁵ Instead of conferring title to the Gram Sabha, CFR titles have been found to have been issued in the name of individuals like VSS chairperson or village elder or Sarpanch, which is a clear violation of the law”.²⁴⁶

In a letter addressed to the State Forest Department, dated 17th August 2013, MoTA clarified that the grant of community rights titled in the name of VSSs under the FRA was a violation of the Act and such JFM committees could not be claimants under the FRA.

In Gadchiroli, Maharashtra a study reports “In almost all the villages we visited in Gadchiroli, JFM has been implemented, even after the CFR titles have been granted. The reason given by facilitators is that for works taken up under JFM, funding is provided by the Forest Department. CFR rights come with the responsibility of protecting, conserving and regenerating their forests. However, there is no provision of funding for work related to these responsibilities. Also, though the CFR titles have been granted, the forests given under CFR to many villages do not have bamboo or any other NTFPs, which could help communities earn livelihood.” In Tamil Nadu, “they have not been allowing filing of CFRs (as in Madurai, Virudhunagar, and Tirunelveli districts of Tamil Nadu) because forests rights like grazing have been curtailed under former JFM programs.”²⁴⁷

In Uttarakhand, “considering the historical background of Van Panchayats and clash with JFM strongholds, there is poor awareness about FRA at the village and

²⁴⁴ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report at page 199)*; see also Madhu Sarin, *Presentation on Issues in State Action Plans (regional consultations) dated 16th March 2013*; CFR LA Kalpavrikra – Vasundhara, *A National Report on Community Forest Rights under Forest Rights Act: Status & Issues, 2012 at page 46*.

²⁴⁵ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report at page 199)*; see also Madhu Sarin, *Presentation on Issues in State Action Plans (regional consultations) dated 16th March 2013*; CFR LA Kalpavriksh – Vasundhara, *A National Report on Community Forest Rights under Forest Rights Act: Status & Issues, 2012 at page 70*.

²⁴⁶ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report) at page 216*.

²⁴⁷ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report) at page 216*.

administrative level and a negation of the hamlet level process of FRC constitution and recognition of OTFDs and of community forest rights.”²⁴⁸

9.2.4 Particularly Vulnerable Tribal Groups: Food Security and Habitat Rights

The Right to Food Commissioner’s Report identifies Particularly Vulnerable Tribal Groups (PVTGs) as most susceptible to malnutrition.²⁴⁹ The report acknowledges that these communities derive their nutrition from the forest and habitat they live in. Tribals are denied access to the forest and its produce, often due to persistent lobbying by conservationists and environmentalists.

PVTGs inhabit areas that are inaccessible by road, and therefore cannot travel easily to Anganwadi centers, where food is prepared. Moreover, their hamlets are considered too small to open an Anganwadi centre. As far as the Midday Meal Schemes are concerned, tribals are wary of their children attending mainstream schools, either due to fear of stigmatization in school or physical distance.²⁵⁰

A spate of infant deaths among the PVTG in Attapadi in the Palakkad district of Kerala brought back the spectre of malnourishment, anaemia and extreme poverty. The report of the advisor to the commissioners in the Right to Food petition before the Supreme Court received information that 36 children had died in the six months preceding his visit in May 2013.²⁵¹

Severe anemia, malnourishment, the lack of potable water, the absence of specialized doctors and of equipment led to the precarious nature of health care and protection in Attapadi, leading to the death of infants. At a public hearing in Attapadi, speaker after speaker spoke of the distance between the dwellings of Kurumba tribals and the ration shop, the paucity of minor irrigation projects that could ensure drinking water and irrigation to the tribal community, the inaccessibility to remote tribal villages and the problem brought on by drought. One issue that was raised was about forest-dwelling communities which have had a sudden shift in their nutrition status after rules that have been made which prevent killing of animals without providing them with alternatives that would make up for the loss of nourishment.

Attapadi has again highlighted the implications of extreme poverty and inaccessibility. Attapadi is a stark reminder of how forgotten tribal communities can become and what contexts of direness are produced by extreme poverty, remoteness and the non-provision of services by an administration.

²⁴⁸ SCSTRTI, *National Research Study of Implementation of FRA in Neighbouring States of Odisha, 2013 (Draft Report)* at page 216.

²⁴⁹ Right to Food Commissioners, *A Special Report on Most Vulnerable Social Groups and Their Access to Food, 8th Report of the Commissioners of the Supreme Court in the case: PUCL v. UOI & Ors. Writ Petition (Civil) No. 196 of 2001, August 2008.*

²⁵⁰ *Ibid.*

²⁵¹ *Deaths of unnamed children: Malnutrition and Destitution among Adivasis in Kerala, Adv. Clifton D’ Rozario Advisor to Commissioners of the Hon’ble Supreme Court in the case: P.U.C.L. versus UoI & Ors., (W.P. No. 196 of 2001) May 2013.*

An ‘Attapadi package’ was put together “intended to improve the health services, functioning of the Anganwadis and also revive traditional agricultural practices in the region, along with implementation of the Kurumba package which itself includes house construction, buying of land, electrical works, soil conservation, drinking water program, road, health, poverty alleviation, community area development, etc.” Although this was a response to an emergency, it reveals the extent of systemic changes needed to deal with situations of extreme poverty and vulnerability.

Years of deprivation has caused malnutrition rates to escalate. Control over forest resources is, therefore, essential for the survival of PVTGs. In recognition of this vulnerability, the FRA has a special provision for PVTGs for “rights including community tenures of habitat and habitation” under Section 3(1) (e). Habitat is defined as including the ‘area comprising the customary habitat and such other habitats in Reserved Forests and Protected Forests’.²⁵²

In the *Orissa Mining Corporation. v. MoEF* case,²⁵³ the Court pointed to the FRA Rules, 2012 which state:

*(c) “In view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs) amongst the forest dwellers, District Level Committee should play a pro-active role in ensuring that all PTGs receive habitat rights in consultation with the concerned PTGs’ traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas.”*²⁵⁴

The Rules further state that the DLC is also vested with the function of examining whether claims filed by PVTGs have been addressed keeping in mind the objectives of the FRA.²⁵⁵

For PVTGs, the implementation of FRA has been poorest since their habitat rights are not clearly defined or understood by the Forest Department. No disaggregated information and data at the national level on status of the implementation of the provision for rights of PVTGs particularly of habitat rights under the FRA. The Joint Committee Report, 2010, found that “Orissa is the only state that has taken some pro-active steps on PTGs and issued a number of circulars focusing their rights, and entrusted the responsibility on the micro-project officers and project administrators of ITDAs, but neither ‘habitat right’ nor CFRs in any case has been finalized.”²⁵⁶ Out of the 75 PVTGs, there are hardly one or two examples of habitat rights claims (claims

²⁵² S. 2(h) of the FRA states “‘habitat’ includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes”

²⁵³ *Orissa Mining Corporation v. MoEF* (2013) 6 SCC 476.

²⁵⁴ Rule 12B, FRA Rules, 2012.

²⁵⁵ Rule 8B, FRA Rules, 2012.

²⁵⁶ Report, National Committee on the Forest Rights Act, December 2010, A Joint Committee of Ministry of Environment and Forests and Ministry of Tribal Affairs, Government of India.

by the Juangs in Keonjhar, Odisha and by Madia in Bhamragarh of Maharashtra). The claims by the Juangs are still pending.²⁵⁷

Some problems that arise for tribal communities in claiming habitat rights include: lack of clarity over definition and interpretation of what is entailed in habitat rights; multiple interpretations of habitat, especially if the user rights of other, non-PVTG groups sharing the same territory are involved; or if the traditional habitat boundaries of PVTGs overlap with wildlife habitats; and a lack of awareness among such communities about the terms in which to articulate such claims. The definition of 'habitat' among PVTGs is still evolving. One example is the work being done in the Baigachak area of Dindori district, Madhya Pradesh to document the traditional 'garhs' or places of origin of the Baigas, a forest-dependent PVTG belonging to Madhya Pradesh and Chhattisgarh. Garhs are sacred paces (villages, trees, rocks, or caves) that could extend much further than the traditional village or forest boundaries of Baigas resident in one particular area. Garhs are often in Reserved Forests, and are associated with deities, sacred plants and totemic animal species revered and protected by particular clans of the Baigas. The worship of garhs is a living tradition. Activists in Dindori are attempting, through tracing the garhs of various Baiga clans, to establish a history of the range and pattern of movement through which Baigas have settled in their present habitations.

The difference between states of poverty and of vulnerability has been explored in the context of PVTGs. It is doubtless true, that many communities of Scheduled Tribes, and more particularly of PVTG, can be classified as being in poverty. Yet, their access to resources in forests makes a difference to the extent of their vulnerability. Where there has been a depletion of forest cover, and the emphasis is on timber trees, it was pointed out that the effect was to add to the vulnerability of PVTGs. Where, on the other hand, the resources are safeguarded and the community has access, the ability to prevent nutritional distress can be augmented.

There are attempts underway to document and give value to the resources which are found in PVTG areas. The Jana Swasthya Sahyog in Chhattisgarh has, for instance, identified the various food, fruits and flora in the region and explained the nutritional value of the produce (Annexure 4).

The depletion of these resources, or denial of access to the resources, threatens a descent from poverty to vulnerability. This is a tangible loss and must be accounted for, and averted, when any program or project is proposed.

²⁵⁷A Report of The National Level Public Hearing On Community Forest Rights on 14th December 2013 Organized by Community Forest Rights Learning and Advocacy Process (CFR-LA) and Adivasi Janjati Adhikar Manch (AJAM) Community Forest Rights-Learning and Advocacy Process (CFR-LA).

9.2.5 Women

The committee has noted that women's participation in processes under the FRA remains low. Women are dependent on forest and forestland for their livelihood and active participants in the various forest activities. In a telling statement, the women's cooperative President in Panibhandar village in Odisha reportedly said in an interview, "My land and forest is important for me, what will I do with other things if there is no right over forest. Forest is the only resource from which women are getting income."²⁵⁸ The absence of their voice at various levels (from Gram Sabhas to forest committees) means that critical issues are often overlooked.

Empowering provisions for women under FRA include:

- Section 2(g) of the Act provides for the full and unrestricted participation of women in Gram Sabha
- Rule 4 (2) provides that "The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women
- Rule 3 (1) provides that not less than 1/3rd of the members of the FRC shall be women
- Rule 5 (c) requires that at least one of the three PRI members nominated to the SDLC shall be a woman.
- Similarly, rule 7 (c) requires that out of the three members of the district panchayat to be nominated to the DLC by the district panchayat, at least one shall be a woman
- Section 4 (4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person.

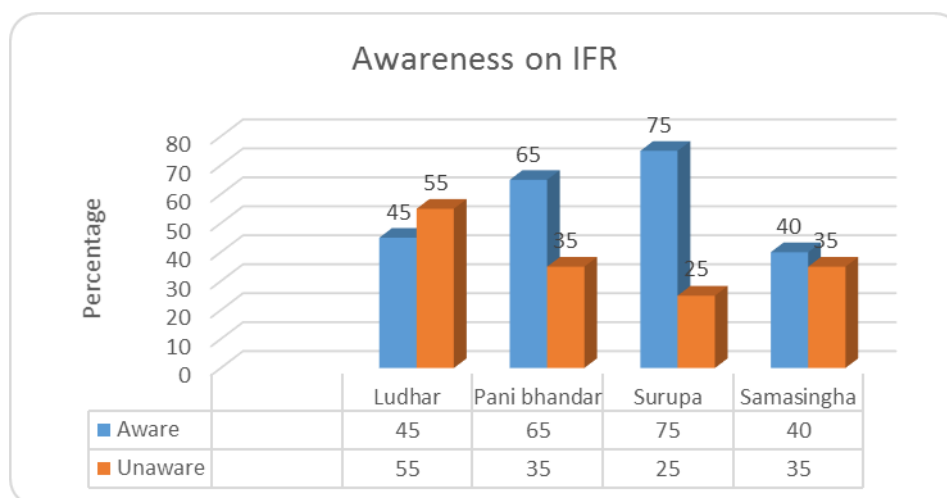
There has been little perceptible effort to create awareness among women regarding the process of claim making, verification and the rules relating to it.²⁵⁹ However, according to the field study, most women gain awareness through NGOs working in their area and through their cooperative societies. A large majority (80 percent) are not aware of the amount of land claimed by their husbands and how much land is recognized.²⁶⁰

²⁵⁸ Vasundhara, *Draft Report on Women and Land: Scope under Forest Rights Act, Odisha, 2014* at page 16.

²⁵⁹ Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act, Odisha, 2014* at page 19.

²⁶⁰ Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act, Odisha, 2014* at page 16.

Figure 9.1: Awareness levels regarding Individual Forest Rights among Women



Source: Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act, Odisha, 2014*.

The field report reveals that although the population of women in villages is often more than men, this is not reflected in their representation in the Gram Sabha.²⁶¹

Even among the women who participate in the Gram Sabha, the study points to lack of basic awareness. Single women and widows were a majority of the women present. Others only come when their husbands are unable to do so and stated that they were usually not allowed to air their opinion and therefore preferred not to participate.

Representation in Forest Rights Committee (FRC): One third representation of women in the FRC is mandated by law. Field studies in Odisha revealed that in most places, there was only 20 percent representation of women.²⁶²

Joint titles: The law mandates that certificates for forest claims must be issued jointly in the name of both the husband and wife; however studies show that this provision has been largely ignored in Odisha, and the survey shows low levels of awareness about this provision among women.²⁶³

9.3 Forest Rights Act in Protected Areas

There are about 690 Protected Areas (PAs), i.e., National Parks and Sanctuaries in India. These areas are established under the Wildlife Protection Act, 1972 (as amended in 2006), and recognized under the Forest Rights Act.

²⁶¹ Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act Odisha, 2014* at page 14, for example the study shows that in Panibhandar, per 1000 males, there are 1088 females and Samasingha, per 1000 males, there are 1092 females. Even so, while percent adults participate in the Gram Sabha, 15 percent are women while 84 percent are men. Similarly, in Surupa district, 19 percent of total adult members participate in the Gram Sabha of which 14.81 percent is women [these represent 5.71 percent of total adult women of the village] and in Samasingha, 20 percent participated in the Gram Sabha, of which 16.66 percent are women.

²⁶² Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act Odisha, 2014* at page 15.

²⁶³ Vasundhara, *Draft report on Women and Land: Scope under Forest Rights Act Odisha, 2014* at page 09.

Table 9.2: Protected Areas of India²⁶⁴

Protected Areas	No.	Area (km ²)	Percent of Geographical Area of India
National Parks	102	40075	1.22
Wildlife Sanctuaries	526	124239	3.78
Conservation Reserves	57	2017.94	0.06
Community Reserves	4	20.69	0.0
Protected Areas	689	166352.63	5.06
Geographical Area of India (FSI, 1999)			= 32,87,263 km ²
Recorded Forest Area of India (FSI, 2001)			= 768,436 km ²
Forest Area			= 23.38 percent of Geographical Area of India

Approximately, three million people in India, most of whom are tribals, live inside PAs and are dependent on them for forest resources. However, in the decades running into a century, forest dwelling and forest dependent tribal communities were treated as encroachers and forest offenders even when, for instance, they would be found collecting minor forest produce. The FRA recognizes not only the right that the tribals and the Other Traditional Forest Dwellers (OTFDs)²⁶⁵ have in relation to the forest, but it also empowers the holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act to:

- “(a) Protect the wild life, forest and biodiversity;*
- (b) Ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;*
- (c) Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;*
- (d) Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.”*²⁶⁶

²⁶⁴ Data prepared by ENVIS Centre on Wildlife and Protected Areas, hosted by Wildlife Institute of India, Dehradun, Sponsored by Ministry of Environment and Forests, Govt. of India entitled “Protected Areas of India from 2000-2013” available at http://wiienviis.nic.in/Database/Protected_Area_854.aspx. Last accessed on 4.4.2014. Data updated as on 31.3.2013.

²⁶⁵ Under S.2 (o) of the FRA, other traditional forest dwellers (OTFDs) are defined as any member of the community who has for at least three generations prior to the 13th day of December, 2005, primarily resided in and who depend on the forest or forests land for bona fide livelihood needs. Under S. 3 of the FRA, OTFDs are vested with a host of rights including individual and community forest rights.

²⁶⁶ S. 5 of the FRA

There have been situations where tribals and OTFDs have continued to be viewed as communities who should be evicted from the forest so as to pursue other conservation goals. Most states exclude PAs from the application of the FRA due to a lack of understanding and awareness of the law, and that the tribal population is a menace to wildlife in those areas.²⁶⁷ Moreover, forced eviction, relocation and harassment by forest officials is commonplace.²⁶⁸ Reports suggest that between 100,000 and 300,000 people have been evicted from protected areas at different times²⁶⁹. This is despite the law stating that eviction before verification and settlement of claims under the FRA is complete, is unlawful.²⁷⁰ Yet widespread displacement of tribals continues to occur.²⁷¹ This has caused a decline in their economic status, as well as erosion of their customary forest practices.²⁷² A detailed issue-based analysis is provided below.

9.3.1 Critical Wildlife Habitats (CWH)

Critical Wildlife Habitats (CWH) are a specific kind of protected area, defined under the FRA as, “areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after an open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4.”²⁷³

The following constitute the conditions laid down under the FRA, all of which must be fulfilled, before declaring CWHs.

- a. The process of recognition of forest rights in PAs must be complete
- b. The impact caused by the presence of the rights holders must be sufficient to cause irreversible damage to the species and their habitat

²⁶⁷ *Regional Consultations on Implementation of the Forest Rights Act: Amendments in the Rules and the Way Forward organized by Ministry of Tribal Affairs in collaboration with UNDP hosted by the State Tribal Welfare Departments.*

²⁶⁸ *Standing Committee on Social Justice and Empowerment (2011 - 2012) (Fifteenth Lok Sabha) by Ministry of Tribal Affairs*

²⁶⁹ *Lasgorceix, A., and A. Kothari, 2009. "Displacement and relocation of Protected Areas: A synthesis and analysis of case studies". Economic and Political Weekly, 44(49): 37-47.*

²⁷⁰ *See S. 4(2) of FRA*

²⁷¹ *Summary of Recommendations by National Advisory Council on FRA*

²⁷² *Recognition of Rights and Relocation in relation to Critical Tiger Habitats (CTHs) Status under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006, and Wild Life (Protection) Amendment Act (WLPA), 2006, Legislation Brief by Kalpavriksh.*

²⁷³ *S. 2(b) of FRA states "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4"*

- c. The State government concludes that co-existence is not possible
- d. A resettlement package has been prepared and communicated to the affected communities
- e. Free and informed consent of the Gram Sabha to the proposed resettlement has been taken
- f. No resettlement to take place until land allocation according to the promised package is complete.²⁷⁴

Rushed notification of CWH by government agencies leads to a host of problems that overlook the conditions required by FRA.²⁷⁵

9.3.2 Non-recognition and rejection of Community Forest Rights claims

CFRs assume special importance in PAs as the FRA defines the use of community forest resource to which the community had traditional access within protected areas like national parks and sanctuaries.²⁷⁶ There are certain incorrect assumptions regarding implementation of the FRA. At the Forest Department level, it was believed that rights under FRA couldn't be claimed in PAs or when resettlement was already underway before the FRA was enacted, and that FRA is not applicable in Tiger Reserves.²⁷⁷ In Tamil Nadu's State Action Plan, it is stated that Minor Forest Produce collection in PAs is not affected by FRA because it is not a traditional right. The Government of Sikkim via a notification dated 28.1.2008 constituted an Expert Committee for identification of Critical Wildlife habitats in Protected Areas. It has also constituted other Committees under the Act namely SDLC, DLC and SLMC. However, the Government has remarked that 'In Sikkim, there are no Forest Dwelling

²⁷⁴ S. 4(2) of FRA states "Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers. - (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes and vests forest rights in- (a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3; (b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3. (2) The forest rights recognized under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration; (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat; (c) the State Government has concluded that other reasonable options, such as, co-existence are not available; (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government; (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing; (f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package: Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses."

²⁷⁵ See Ajay Dubey. V National Tiger Conservation Authority and Ors, Petition for Special Leave to Appeal (Civil) No(s). 21339/2011

²⁷⁶ S. 2(a) of FRA states "'community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access."

²⁷⁷ Report, National Committee on the Forest Rights Act, December 2010, A Joint Committee of Ministry of Environment and Forests and Ministry of Tribal Affairs, Government of India.

Scheduled Tribes and Other Traditional Forest Dwellers in the true sense of the terms. Most of the Scheduled Tribes of Sikkim hold revenue land in their own name and they are not solely dependent on the forests for their livelihood.’ This kind of misinterpretation and non-implementation of the FRA makes recognizing CFRs more problematic in PAs.

Pending claims are common in PAs, since officials incorrectly believe that FRA is not applicable in these areas. In the Palamu Tiger Reserve in Jharkhand, CFR claims have been pending since 2011. In Biligiri Rangaswamy Temple Sanctuary (Karnataka), Soliga adivasis have applied for CFRs with detailed documentation and maps, yet their claims have been pending. In Wadala, in Tadoba Andhari Tiger Reserve, CFR claims were rejected by the SDLC, because the villagers would have a negative impact on the area. In Badrama Wild life Sanctuary in Sambalpur CFR rights are not being recognized.²⁷⁸ The Raika tribe in Rajasthan are a pastoral community. However, for grazing cattle in Kumbhalgarh Sanctuary of Rajasthan, no permits have been issued to them since 2002, though higher penalties are being imposed for grazing in the PAs.^{279,280} A possible reason for rejection of claims is that the area claimed does not use new technology like satellite imagery and instead relies on traditional methods of land demarcation.²⁸¹

9.3.3 Consultation with and consent of the Gram Sabha

Both the FRA and the Wildlife Protection Act, 1972 amended in 2006(WLPA), require that the Gram Sabhas of the affected areas be consulted before declaring CWHs or PAs. Examples indicate that this provision remains in disuse. In Yawal Wildlife Sanctuary of Maharashtra, a committee was formed for demarcation of a CWH minus participation from the affected villagers.²⁸² Often Gram Sabhas are neither sent notices for consultation, nor are their consent signatures taken by the Government for declaring CWHs.²⁸³ Further field visits to Sariska tiger reserve have indicated that Gram Sabha Consent has not been taken, only individual families have been approached by the Forest Department. Further, they have been ‘informed’ that they must consent to one of two options under the compensation scheme-cash for land, or land for land. If they do not choose either, they will have missed the opportunity.²⁸⁴

²⁷⁸ Desor. S(ed.) 2013 , *Community Forest Rights under Forest Rights Act: Citizens Report 2013*, Kalpavriksh, Pune and Vasundhara, Bhubhaneshwar, with Oxfam, Delhi, on behalf of Community Forest Rights Learning and Advocacy Process

²⁷⁹ See *Ibid.*

²⁸⁰ See *Ibid.*

²⁸¹ *Regional Consultations on Implementation of the Forest Rights Act: Amendments in the Rules and the Way Forward* organized by Ministry of Tribal Affairs in collaboration with UNDP hosted by the State Tribal Welfare Departments in 2012.

²⁸² See *Ibid.*

²⁸³ See *Ibid.*

²⁸⁴ *Legislation Brief* by Kalpavriksh, “Recognition of Rights and Relocation in relation to Critical Tiger Habitats (CTHs) Status under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA), 2006, and Wild Life (Protection) Amendment Act (WLPA), 2006.” This legislation brief is based on analysis and interpretation of those provisions of Wild Life (Protection) Amendment Act (WLPA), 2006 and The Scheduled Tribes and Other Traditional Forest

9.3.4 Relocation without following process under WLPA and FRA

The FRA makes it abundantly clear that relocation cannot be undertaken without rights recognition and consent of the Gram Sabha, among other conditions. The focus remains on relocation instead of exploring co-existence.²⁸⁵ Even so, there are examples of illegal relocation in the areas of Bandipur and Nagarhole National Park in Karnataka, Simlipal in Odisha, Sariska in Rajasthan, and Udanti and Achanakmar in Chhattisgarh.²⁸⁶ A letter by the Additional Inspector General (FC), MoEF (FP Section) compelled the Scheduled Tribes in the National Parks and Wildlife Sanctuaries to leave the premises of National Parks and Wildlife Sanctuaries without settling the rights under the provisions of the FRA.²⁸⁷ In 2012 the Ministry of Tribal Affairs communicated to the Chief Ministers of State Governments that tiger and wildlife habitats were being demarcated in violation of the law, and affected tribals were being asked to relocate without settlement of rights.²⁸⁸

9.3.5 Tiger Reserves

There are 41 Tiger Reserves in India declared under the WLPA 2006. The Tiger Reserve areas largely overlap with the Scheduled Areas where the population is predominantly tribal. The WLPA defines critical tiger habitat and ‘core’ or ‘buffer’ areas. The purpose of this Act was to attain the objectives of ‘tiger conservation’ while ensuring that the rights of tribal people living in and around Tiger Reserves are not impeded. Tiger Reserves are to be notified by the State Governments on the recommendations of National Tiger Conservation Authority (NTCA).²⁸⁹ Core and buffer/peripheral areas must also be designated and included in the tiger reserve, at the time of notification. As per explanation (i) of Section 38(v) (4) of Wildlife Protection Act:

“For the purposes of this section, the expression “Tiger Reserve” includes Core or Critical Tiger Habitat (CTH) areas of national parks and wildlife sanctuaries where it has been established on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of tiger conservation, without affecting the rights of the

Dwellers (Recognition of Forest Rights) Act (FRA), 2006 which deal with relocation from Tiger Reserves and Critical Wildlife Habitats; Data was obtained from field visits to Melghat and Sariska Tiger Reserves; from the NGO Khoj, Melghat (Maharashtra) and the NGO Krapavis, Alwar (Rajasthan), respectively. Also referred to was a December 2010 report entitled Land Rights Violations at Achanakmar Wildlife Sanctuary (Chhattisgarh) by Nadi Ghati Morcha, Baiga Mahapanchayat, and Equations, and other documents obtained from National Tiger Conservation Authority (NTCA) using the Right to Information (RTI) Act.

²⁸⁵ *Regional Consultations on Implementation of the Forest Rights Act: Amendments in the Rules and the Way Forward organized by Ministry of Tribal Affairs in collaboration with UNDP hosted by the State Tribal Welfare Departments in 2012.*

²⁸⁶ *Report, National Committee on the Forest Rights Act, December 2010, Joint Committee of Ministry of Environment and Forests and Ministry of Tribal Affairs, Government of India.*

²⁸⁷ *Letter by Shri. Mohan Lal, AIG(FC) dated 21st June 2010*

²⁸⁸ *Letter from MoTA to Chief Ministers of Himachal Pradesh, Nagaland, Mizoram, Manipur, Assam, Meghalaya, Chhattisgarh, Madhya Pradesh, Maharashtra, Odisha, Uttarakhand, Tripura, Arunachal Pradesh, Kerala, Karnataka, Tamil Nadu and Andhra Pradesh, dated 24.5.2012*

²⁸⁹ *S. 38V (1) of the Wildlife Protection Amendment Act, 2006 states “The State Government shall, on the recommendation of the Tiger Conservation Authority, notify an area as a tiger reserve.”*

Scheduled Tribes or such other forest dwellers, and notified as such by the State Government in consultation with an Expert Committee constituted for the purpose".(emphasis supplied)

Tiger Reserves have assumed greater complications in light of the judicial intervention by the Supreme Court in a case that has been challenging tiger tourism.²⁹⁰ On 24th July 2012, the Supreme Court issued an order²⁹¹, stating, among other things that "till the final directions issued by this court with reference to the guidelines submitted by the National Tiger Conservation Authority (NTCA), core zone or core areas in the Tiger Reserved Areas will not be used for tourism."²⁹² The Court had directed concerned state governments with tiger reserve areas, to issue and submit their notifications in relation to core and buffer areas, within 3 weeks from the date of the order. On 3rd April 2012 the court had also ordered a time bound issuance of notification viz. within 3 months from the date of that order.

The problem is the disproportionate haste with which state governments have issued notifications of buffer areas, without following the processes prescribed under the FRA and the Wildlife Protection Act, of rights settlement, exploring coexistence and free and informed Gram Sabha consent. The NTCA Relocation Committee Report, 2010, highlights the following issues in connection with the FRA.²⁹³

- No rights recognition happening in Achankmar, Panna, Sariska reserves
- Mostly individual consent, no evidence of 'Gram Sabha consent' and 'informed' consent. Field investigations of the Sariska reports reveals a lack of FRA information, while the Achanakmar report mentions only individual consent
- Land option and compensation for actual assets not being made available, inconsistencies in resettlement package were reported from Sariska, Panna, Ranthambore, Achanakmar, Panna and Bandhavgarh Tiger Reserves
- Insufficient water facilities leading to scarcity for drinking and irrigation in the resettled land in Achanakmar and Panna.

The Supreme Court orders led the Ministry of Tribal Affairs to intervene. In an affidavit before the Court, the MoTA stated that core areas and buffer areas categories have been in existence for a long time. Any further declaration of additional buffer areas will incorporate large areas of private lands, revenue lands, or forest lands, on which Scheduled Tribes and other traditional forest dwellers are exercising pre-

²⁹⁰ See *Ajay Dubey. V National Tiger Conservation Authority and Ors, Petition for Special Leave to Appeal (Civil) No(s). 21339/2011*

²⁹¹ See *Ajay Dubey. V National Tiger Conservation Authority and Ors, Petition for Special Leave to Appeal (Civil) No(s). 21339/2011*

²⁹² See *Order of the Supreme Court in Ajay Dubey. V National Tiger Conservation Authority and Ors, Petition for Special Leave to Appeal (Civil) No(s). 21339/2011*

²⁹³ A study of 4 Tiger Reserves (Simlipal Tiger Reserve in Odisha, Sariska Tiger Reserve in Rajasthan, Melghat Tiger Reserve in Maharashtra and Achanakmar Tiger Reserve in Chhattisgarh) found that legal requirements (as mentioned above) for creating CTH or for relocation were not carried out in these. The reports of the NTCA monitoring committees also mention these violations, as summarized in the table.

existing rights. Therefore, “declaration of further Buffer Areas by the State Governments will cause enormous hardship to the Scheduled Tribes and forest dwellers who eke out their livelihood in these areas.”²⁹⁴ It goes on to say that consultation with the local communities, a prerequisite under PESA and FRA, has been inadequate and non-existent, because of the time bound nature of the orders of the Supreme Court, causing state governments to respond hastily and without following the law.

Though, the MoEF has issued a multitude of circulars and guidelines stating that relocation can only occur if processes under FRA and WLPA are implemented, ground reality suggests otherwise.²⁹⁵

²⁹⁴ *Affidavit of the MoTA in Ajay Dubey v. National Tiger Conservation Authority and Ors, Intervention Application No. of 2012 in SLP(Civil) No. 21339 of 2011.*

²⁹⁵ *Refer to letter by MoTA to the Chief Ministers dated 24.5.2012 and letter by Shri. Mohan Lal AIG (FC) dated 21.6.2010.*

Case study of Simlipal Tiger Reserve

Problems in connection with the notification of the Simlipal Tiger Reserve include relocation and resettlement without following the process under the FRA and WLPA, as well as tribals being restricted by forest guards from using Non Timber Forest Produce (NTFP) within the reserve.

The Simlipal tiger reserve is located in the Mayurbhanj district of Odisha. There are 65 villages situated inside the Sanctuary area of which 61 villages are in the buffer area and 4 villages are in the core area. According to the 2001 Census, the Scheduled Tribe population in the Simlipal area is around 11,520 (91.77 per cent) and includes two particularly vulnerable tribal groups (PVTGs), namely, Khadia and Mankidia, who depend primarily on the forests of Simlipal. These communities are originally nomadic tribes, known for making siali ropes, catching and eating monkeys and live in areas, which are now part of the Simlipal Tiger Reserve. Their nomadic pattern is seasonal and depends on availability of non-timber forest products (NTFPs). In order to discourage this custom of killing monkeys and to decrease their use of siali (which is one of the main sources of food for elephants), many PVTGs in Mayurbhanj were relocated by the State government from the Simlipal Tiger Reserve areas into permanent colonies run by the Integrated Tribal Development Agency (ITDA). These PVTGs are restricted by forest guards to enter into the Simlipal area to collect NTFPs such as the Siali Bark, amra, mahua, char and sal leaves, which they have always traditionally collected.

Field studies indicate that 61 families belonging to the Khadia community were relocated from the village of Jenabil within the Simlipal reserve, to Ambadiha colony in 2010. However, as per information shared by the families, the relocation was carried out without recognition of their rights under FRA and WLPA. Reportedly, individual land claims under the FRA had been made by Jenabil residents, however, they were immediately struck down by Forest Department officials, as they were in a Tiger reserve area. Post-relocation facilities in Ambadiha are also poor. Land was demarcated for them to cultivate but was not yet formally handed over to the relocated families, neither were there irrigation facilities. Another village, Kabatghai, which is a revenue village, in the Jashipur block is one of the core villages to be relocated. The village consists of 35 households of Scheduled Tribes. The villagers organized a Palli Sabha in June 2011 to discuss the proposed relocation where they opposed it. They have also submitted 23 individual forest rights claims which are yet to be recognized. Petitions have been filed by the Kabatghai village with the State Level Monitoring Committee in 2011 against the relocation process. About 32 families residing in both UparBarhakamuda and Bahaghara settlements have been relocated from the core area in November 2013. As, in other relocations, in this case, too the legal procedure under FRA and WLPA has not been followed.

Source: Note on Implementation of Forest Rights Act in Simlipal Tiger Reserve and Relocation of Villages-Report prepared by Vasundhara, February 2014; Tiger protection, Maoism and the Forest Rights Act: The story of Jenabil-Report Prepared by Puspanjali Satpathy and Gunjan Jain, March 2010 also available at <http://www.fra.org.in/Jenabil%20displacement.pdf>; The FRA process in Mayurbhanj: An attempt to undo the wrongs of the past-Report prepared by Vasundhara, 2013

9.3.6 Elephant Corridor

In April 2011, the Madras High Court heard a case in which the Principal Chief Conservator of Forest and the Chief Wildlife Warden had suggested that the private/patta land forming the traditional movement corridors of animals particularly the elephants, be brought under the control of the Forest Department by acquiring the land and paying compensation to the owners.²⁹⁶ The Expert Committee set up by the court, comprising five senior forest officials, has stated in its report that “all revenue

²⁹⁶ *In Defence of Environment and Animals v. The Principle Chief Conservator of Forest and Ors*, WP No. 10098 of 2008.

lands within the elephant corridor area should be handed over to the Forest Department.”

The High Court had said that:

with regard to the forest dwellers whose interests are protected under the FRA, the State government is directed to strictly adhere to and comply with the Act (FRA) when dealing with forest dwellers and others who fall within the ambit of the act and the case of any forest dweller who is evicted from the identified elephant corridor, they be provided with best alternate and suitable accommodation.’

This matter is now before the Supreme Court.

The local tribals were apprehensive that the order would be used to evict them from areas that were being declared as part of the elephant corridor. This anxiety is also reflected in the affidavit of the Ministry of Environment and Forest in the Supreme Court, which speaks of 700 families mostly dalits and tribals, who are dependent on the land for their livelihood. The affidavit filed in 2012, points out that the rights of the occupants have not been settled yet under the FRA. The Elephant Task Force in 2010²⁹⁷ had categorically stated that “the Task Force is convinced that local people resident in the reserve area should be partners and allies for conservation and not be treated as adversaries.” This is in keeping with the provisions of the FRA cited above.

Tribals whom the Committee spoke to near the Mudumalai Reserve in Tamil Nadu spoke with a conviction that their eviction was a means for the Forest Department to reassert control over their land. This was a common refrain in places where the elephant corridor is seen as threatening to dispossess tribals. It was also a sign of a breakdown of trust between the tribals and the Forest Department which needs to be urgently addressed.

Both the Tiger Reserve and Elephant Corridor cases demonstrate the deliberate circumvention of provisions of the PESA and the FRA by state governments. It also shows how tribals find themselves caught between conservationists and the forest bureaucracy.

9.3.7 Evictions: Letter dated May 3, 2002

The preamble of the FRA recognizes the rights of forest dwelling communities evicted from their lands at the hands of the state: “and whereas it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to state development interventions”.

²⁹⁷ Gajah, *Securing the future of Elephants in India, the Report of the Elephant Task Force, Ministry of Environment and Forests, August 31st 2010.*

This recognition comes in light of a long history of arbitrary forced evictions of these communities. The colonization of forest land took place, first through the operation of the Indian Forest Act, by earmarking ‘reserved forests’, and thereafter evicting forest dwelling communities. Evictions have continued in the post-colonial phase, sometimes for “conservation” and at others for “scientific forestry”.

In a letter dated 28th May 1990, the Commissioner for Scheduled Castes and Scheduled Tribes highlighted how state government orders which recognized the rights of tribal communities were being openly disregarded. The MoEF in turn issued six circulars which also remained dead letter.

On 3rd May, 2002, the Inspector General of Forests (IGF) issued a letter to the Chief Secretaries of all States, directing State authorities to prepare a time bound program for summary eviction of all encroachments not eligible for regularization. This was supposedly in a follow up to a Supreme Court order in Godavarman Thirumulpad v. UOI dated 23rd November, 2001.

What this court order actually did was merely restrain the Central government from regularizing encroachments in the country, without the court’s permission. The IGF’s letter was, in effect, a misinterpretation of this order of the court. What resulted was large scale forced evictions of tribal communities by the state. The scale is indicated in the figures below:

Table 9.3: Figures on Encroachments, Regularization and Evictions (31.3.2004)

State/UT	Existing encroachment (pre and post 1980) in ha	Total (pre-1980) eligible encroachments regularized over forest area by Central Government (in ha)	Encroachments evicted from forest lands since May, 2002 (in hectares)
Andhra Pradesh	2,95,383.000		0.000
Assam	2,99,710.000		71,740.000
Arunachal Pradesh	3887.810	13,419.290	150.190
A & N Islands	2057.490	1367.000	2580.400
Bihar	251.869		602.313 ¹
Chandigarh	0.000		0.000
Chhattisgarh	150,495.000		0.000
Delhi	0.000		0.000
Daman & Diu	87.960		0.000
D & Nagar Haveli	614.350		0.000
Gujarat	22,139.540	31,982.800	14,416.860
Goa	1012.000		0.000
Haryana	1274.060		873.840
Himachal Pradesh	2841.875		84.124
J&K	9284.000		1806.000
Jharkhand	48,438.410		1,739.390
Karnataka	67710.000	14848.830	19,948.000
Kerala	7,290.000	28,588.159	2,183.000
Lakshwadeep	0.000		0.000

Maharashtra	79,641.730		13,557.660
Manipur	533.240		2.750
Meghalaya	6584.490		0.000
Madhya Pradesh	138,110.585	275,405.692	8,071.640
Mizoram	18759.616		0.000
Nagaland	0.000		0.000
Orissa	42,605.530	29.940	2463.434
Punjab	6812.806		420.767
Pondicherry	0.000		0.000
Rajasthan	6712.742		8360.412
Sikkim	3499.640		50.450
Tamil Nadu	17555.564		1698.284
Tripura	59,336.150	27.400	0.000
Uttaranchal	9668.000		280.800
Uttar Pradesh	27,214.630		361.900
West Bengal	13,834.536		1007.896
Total	13,43,346.622	3,65,669.111	1,52,400.110

Source: Reply to Lok Sabha Starred Question No. 284 by Shri Tathagata Satpathy and Shri Mahavir Bhagora regarding regularization of encroachments on forest land, due for reply on 16.8.2004, Annexures I-III. MoEF data as on 31-3-2004, collected from the States/UTs.

In Bihar the area evicted appears to exceed the existing encroachments. The evictions have not been reversed, and in most places those evicted have not been able to access their rights under the FRA. This is a situation where restorative justice and reparation must be given to those wrongfully evicted.

9.4 Panchayats (Extension to the Scheduled Areas) Act, 1996, (PESA)

Scheduled Areas, because of their richness in natural resources, are, as a letter from the Ministry of Panchayati Raj stated, historically characterized as susceptible to pressure from “unscrupulous elements indulging in illegal mining & forest felling” leading to land alienation, exploitation and “dislocation of the communities and loss of major sources of livelihood.” Therefore it was vital that customs, rights and livelihoods of those living in Scheduled Areas were protected.²⁹⁸ Accordingly, the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, (PESA), was enacted, extending Part IX of the Constitution to the Schedule V Areas. In enabling the Panchayats to ‘function as institutions of self-government’, a state government is mandated to ensure that the Panchayats at various levels and the Gram Sabha are endowed inter alia with:

- power to prevent alienation of land in the Scheduled areas and to take appropriate action
- to restore any unlawfully alienated land of a Scheduled Tribe
- ownership of minor forest produce

²⁹⁸Letter No. N-11012/1/2007-PESA (Pt) from Ministry of Panchayati Raj, New Delhi dated 21st May, 2010 to Chief Secretary, PESA States.

- power to enforce prohibition, or to regulate or restrict the sale and consumption of any intoxicant
- power to exercise control over money lending to the Scheduled Tribes
- power to exercise control over institutions and functionaries in all social sectors
- power to control local plans, and resources for such plans including tribal sub-plans
- power of prior recommendation in granting prospecting license or mining leases for minor minerals as well as for grant of concessions for the exploitation of minor minerals by auction
- right to be consulted on matters of land acquisition
- power to issue utilization certificates for government works undertaken in their village.

PESA is an acronym for the Provisions of Panchayats (Extension to Scheduled Areas) Act 1996. Article 243-M (4)(b) of the Constitution states that “Parliament may, by law extend the provisions of this Part (Part IX relating to Panchayats) to the Scheduled Areas...*subject to such exceptions and modifications* as may be specified in such law”. And “no such law shall be deemed to be an amendment of this Constitution...”. It bears reiteration that the provisions of the 73rd Amendment relating to Panchayats do not automatically apply in Scheduled Areas. They have to be extended to Scheduled Areas by Parliament subject to “exceptions and modifications”. [*Article 243M (4)(b), Constitution of India*] This was in recognition of “the unique characteristics of tribal communities in the Scheduled Areas” [*Union of India v. Rakesh Kumar, (2001) 4 SCC 309, at Para 8*]

While Parliament has enacted a law in relation to Panchayats, there is as yet no law on Nagar Palikas in Scheduled Areas. Article 243-ZC (3) contains a provision parallel to Section 243-M(4)(b). The committee had their attention drawn to the proliferation of Nagar Palikas in Scheduled Areas and to the expansion of already established towns and municipalities. This is being done without the consent of Gram Sabhas which are affected by the proposal to establish or extend a Nagar Palikas or to be merged with one already in existence. This, as a report points out, creates pockets of ‘unscheduled areas’ [*Shankar Gopalakrishnan, India and the Rights of Indigenous Peoples: Illusion and Disillusion; Constitutional, Legislative and Administrative Provisions Concerning Indigenous and Tribal Peoples, 2010.*] within Scheduled Areas, as cities and towns lose the dynamic that animates villages and hamlets. In 2008, the Jharkhand High Court held that, despite Article 243-ZC, the law relating to municipalities that pre-existed the 74th amendment would continue to apply in Scheduled Areas too, because that is what Article 243-ZF says should be done till the legislature or other competent authority amends or repeals it. [*Uday Shankar Ojha and Ors vs. Jharkhand State Election Commission and Anr, judgment and order dated 29.02.2008; High Court of Jharkhand; 2008 (2) JCR 249 (Jhr) referred to in ibid.*] This decision does not recognize that the 74th Amendment makes a distinction between other municipalities and those in Scheduled Areas, and that it is Parliament that has to make a law with ‘such exceptions and modifications’ so as to ensure that the constitutional protections that extend to Scheduled Areas do not get diluted or negated. That Parliament has not performed the task of law making regarding municipalities in Scheduled Areas cannot be a reason for denying the protections to the tribals. This would be a way of defeating the purpose of the special status that has been given constitutional recognition in Article 243-ZC. The law relating to municipalities, without setting out the ‘exceptions and modifications’, cannot be constitutionally valid in Scheduled Areas. Till Parliament makes a law that sets out the ‘exceptions and modifications’ while extending the law relating to municipalities to Scheduled Areas, or it makes a fresh legislation for municipalities in Scheduled Areas, any extension of municipalities or the establishing of new municipalities would be legally untenable.

It may be recalled that in 2001, the Municipalities (Extension to Scheduled Areas) Act was introduced in the Rajya Sabha. This Bill was referred to the Standing Committee of Parliament on Urban Development and Poverty Alleviation which, in its fiftieth report in 2003, recommended its adoption with some modifications. After being listed a few times in the list of business of Parliament, the Bill has gone into oblivion, indicating a lack of urgency that is contradictory to the constitutional requirement of a law on municipalities in Scheduled Areas.

However, state wide incorporation of the PESA tenets has been largely absent. Forest Departments in several states continue to have control over forest produce, and deny access to the tribals. Further, Gram Sabha consultations have to be merely ‘considered’ by government officials when deciding land acquisition proposals. Though consideration is mandatory, the choice of words indicates that the final say rests with the Land Acquisition Officer and not the Gram Sabha. Forged and manipulated Gram Sabha resolutions, lack of consent before land acquisition and other grave issues still persist in the implementation of the PESA.

9.4.1 The Rules framed by state governments are not compliant with PESA

Definition of Village

Sec 4(b) of the PESA states that “a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs.” This is in keeping with the spirit behind the 73rd constitutional amendment and the PESA, since takes into consideration the smallest unit of democratic participation, i.e. a village. States have not respected this provision.

In Orissa for example, the Orissa Gram Panchayat Act, 1964, stipulates that the ‘Grama’ shall have a population of 2000-10000, which, in the case of tribal habitations, is usually not the case since they have small populations.²⁹⁹ The Himachal Pradesh Panchayati Raj (Extension to the Scheduled Areas) Rules, 2011 does not define village at all. It only states that the Gram Sabha shall consist of persons, whose names are on electoral rolls in the Gram Panchayat.³⁰⁰ All these instances violate PESA and attack its very core of empowering the Gram Sabha of the village at the habitation/hamlet or group of habitations/hamlets.

Traditional System of Leadership

PESA also empowers the Gram Sabha under Sec.4 (d), “to 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 Rajasthan, however, the meeting of the Gram Sabha is presided over by the Sarpanch of the Gram Panchayat concerned and, in his absence, by the Up-Sarpanch.³⁰¹

In Andhra Pradesh, the Sarpanch of the Gram Panchayat is to be the President of the Gram Sabha and only in his absence can the traditional village leader of the habitation preside.³⁰² This is completely contrary to the PESA that preserves traditional methods of leadership.

²⁹⁹ Extracted from an unpublished study titled ‘Local Governance in Scheduled Tribal Areas in the light of Panchayat Raj (Extension to Scheduled Areas) Act of 1996’, A case study of Maharashtra and Odisha by C.R. Bijoy, Martin Kamodang, Brian Lobo, Nikunj Bhutia and Mithika D’cruz, Indian Institute of Dalit Studies, New Delhi, June, 2012

³⁰⁰ S 2(d) of the Himachal Pradesh Panchayati Raj (Extension to the Scheduled Areas) Rules, 2011 defines Gram Sabha as meaning and consisting of “persons whose names are included in the electoral rolls of a Gram Panchayat”

³⁰¹ Rule 7 of the Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011 states that “The meeting of the Gram Sabha shall be presided over by the Sarpanch of Gram Panchayat concerned, in his absence by the Up-Sarpanch. In the absence of both the Sarpanch and the Up-sarpanch, meeting shall be presided over by a member of the Gram Sabha to be elected for the purpose by a majority of the members present in the meeting.”

³⁰² Rule 4(ii) of the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 states that “The Sarpanch of the Gram Panchayat shall be the President of the Gram Sabha.”

Consultation on Acquisition of Land, Resettlement and Rehabilitation

Section 4(i) of the PESA states that the “*Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level.*”

In Andhra Pradesh, such process is confined only to land owning displaced persons.³⁰³ It also states that only Mandal Parishads would be informed of such acquisition, displacement, rehabilitation and resettlement programs.³⁰⁴ While PESA makes it mandatory for the government to follow recommendations of Gram Sabha and Gram Panchayat before granting of mining or prospective licenses and lease of exploration of minor minerals by auction, the state act instead reduces it to mere consideration of these recommendations at best and too as prescribed by the state.³⁰⁵

In Himachal Pradesh, the rules in force vest power in the Land Acquisition Officer to ‘consider’ the recommendation of the Gram Sabha regarding the land acquisition proposal.³⁰⁶ Consultation and consent with the Gram Sabha are virtually non-existent. In Rajasthan, the recommendation of Gram Sabha shall be considered by the Government or the authority concerned. If after a second consultation, the Government or the authority concerned passes an order against the recommendations of the Gram Sabha, record the reasons for doing so in writing. This is similar to the rules in Himachal Pradesh.³⁰⁷

³⁰³ Rule 5(3) states of the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 “The Mandal Praja Parishad after considering all the facts shall make a recommendation regarding the proposed land acquisition and rehabilitation plan of persons displaced.”

³⁰⁴ Rule 5 (1) of the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 states that ‘When the Government considers land acquisition under any Act, the Government or the concerned authority will submit to the Mandal Praja Parishad the following written information along with the proposal: - (i) The complete outline of the proposed project including the possible impact of the project. (ii) Proposed land acquisition. (iii) New people likely to settle in the village and possible impact on the area and society, and (IV) The proposed participation amount of compensation, job opportunities, for the people of the village.’

³⁰⁵ Rule 5 of the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 states that “(4) the recommendation of the Mandal Praja Parishad shall be considered by the Land Acquisition Officer. (5) In case the Land Acquisition Officer is not in agreement with the recommendations of the Mandal Praja Parishad, he will send the case again to the Mandal Praja Parishad for reconsideration. (6) If after a second consultation, the Land Acquisition Officer passes an order against the recommendations of the Mandal Praja Parishad, he shall record the reasons for doing so in writing.

³⁰⁶ Rule 9(4) of the Himachal Pradesh Panchayati Raj (Extension to the Scheduled Areas) Rules, 2011, states that “the recommendation of the Gram Sabha shall be considered by the land Acquisition Officer.”

³⁰⁷ Rule 18 of the Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011, states that “(4) the recommendation of Gram Sabha shall be considered by the Government or the authority concerned. (5) In case the Government or the authority concerned does not agree with the recommendations of Gram Sabha, it/they shall send the case again to the Gram Sabha for reconsideration. (6) If after a second consultation, the Government or the authority concerned passes an order against the recommendations of the Gram Sabha, record the reasons for doing so in writing. (7) In case of industrial projects, all the Gram Sabhas that are affected by such projects shall be consulted.”

Access to and ownership of Minor Forest Produce is not PESA compliant under various state rules

The FRA defines minor forest produce as including “all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like”.³⁰⁸ The PESA confers the ownership of minor forest produce on the Gram Sabha.³⁰⁹ However, a Planning Commission report acknowledges that “in absence of a comprehensive national/central policy/approach, contradictory legal provisions still prevail while differential state regimes create some of the biggest limitations which constrain a healthy growth of the Non Timber Forest Produce (NTFP) sector. Bamboo, for instance, is defined as a ‘minor forest produce’ in the Forest Rights Act, 2006 whereas the Indian Forest Act, 1927 treats it at par with timber. PESA, 1996 gives ownership rights to local communities over MFPs whereas the regime created under Wildlife Protection Act doesn’t.”³¹⁰ The report goes on to say that the then Minister for Environment and Forests wrote letters to state Chief Ministers to recognize bamboo as a minor forest produce and transfer ownership of the same to local communities, but the state Forest Departments were unwilling to accept that. Though monopoly rights of states are legally questionable they continue with this practice.³¹¹

Gadchiroli, Maharashtra is seen an example of how control over bamboo was vested from the Forest Department and rightly handed over to the Gram Sabha.³¹² However, in Andhra Pradesh a state-owned agency, Girijan Cooperative Corporation (GCC), has obstructed tribals from taking away their non-timber forest produce (hill brooms) from the Scheduled Areas of East Godavari district. In response, the community submitted a memorandum to the concerned officials under the FRA.³¹³ The Andhra Pradesh Rules on ownership and mode of disposal of minor forest produce states that it “shall vest with the individual members of Gram Sabha subject to monopoly rights of GCC ... for procurement of MFP, except Bamboo and Beedi leaf. In respect of Bamboo and Beedi leaf, management, harvesting and disposal shall be done by the Forest Department...(which) shall pass on the net revenue from such disposal of the Bamboo and Beedi leaf harvesting from the area allotted to the Gram Sabha, to the

³⁰⁸ S. 2(i) of the FRA

³⁰⁹ S. 4(m) of the PESA. See *Ibid*.

³¹⁰ Report of the Sub Group II on NTFP and their Sustainable Management in the 12th 5-Year Plan, September 2011. Submitted under the Planning Commission’s Working Group on Forests and Natural Resource Management.

³¹¹ See “After a century, Odisha villagers get back bamboo rights”, Prafulla Das, *The Hindu*, 4th March 2013. Available at <http://www.thehindu.com/todays-paper/tp-national/after-a-century-odisha-villagers-get-back-bamboo-rights/article4473425.ece> Last accessed on 4.4.2014 at 6 pm.

³¹² Report of the Regional Consultation on FRA Implementation in LWE Affected Areas, Organized by Ministry of Tribal Affairs, Government of India, in collaboration with United Nations Development Program, Hosted by Welfare Department, Government of Jharkhand, on 30th -31st July, 2013. Also See “Cabinet okays state’s first bamboo unit in Gadchiroli”, RamuBhagwat, 6th Feb. 2014. Available at <http://timesofindia.indiatimes.com/city/nagpur/Cabinet-okays-states-first-bamboo-unit-in-Gadchiroli/articleshow/29922491.cms>. Last accessed on 3.3.2014 at 745 pm.

³¹³ Issues Related to Implementation of the Forest Rights Act in Andhra Pradesh, M Gopinath Reddy, K Anil Kumar, P Trinadha Rao, Oliver Springate-Baginski, *Economic & Political Weekly*, April 30, 2011, Vol. XLVI.No. 18

respective Gram Sabha.”³¹⁴ While tribal communities may find support for marketing and investment of proceeds of sales helpful, the erosion of their autonomy is against the purpose for which PESA was enacted.

Further, the table below indicates that nearly all state rules are not compliant with PESA regarding ownership and control over minor forest produce.

Table 9.4: State Position on Minor Forest Produce (as on 2010)

S.No	State	Status of Minor Forest Produce
1	Andhra Pradesh	Under Section 242(I) (1) (b) of the Andhra Pradesh Panchayati Raj Act, 1994 the Gram Panchayat or the Gram Sabha, has powers as may be prescribed in respect of ownership of Minor Forest Produce(MFP). But the subject law on MFP is not in compliance with PESA.
2	Chhattisgarh	The Federation of the MFP has been set up in the States under Co-operative act of the State. Collection charges for tendu leaves, dividend and bonus are distributed to the shareholders, i.e., the tribals who collect leaves. Outsiders do not have any right to collect MFP in the Scheduled Areas. Subject laws on MFP are not in compliance with PESA, 1996.
3	Gujarat	Under Section 108 (5) (a) of the Gujarat Panchayat Act, 1993 ownership of MFP is vested with Village Panchayat except MFP found in the areas of National Parks or Sanctuaries.
4	Himachal Pradesh	Section 97-I (1) (a) of the Himachal Pradesh Panchayati Raj Act, 1994 vests the ownership of MFP with the Gram Panchayat or as the case may be, the Gram Sabha which shall exercise such functions in such manner and to such extent as may be prescribed in respect of the ownership of MFP. Subject laws on MFP are not in compliance with PESA, 1996.
5	Jharkhand	Under Section 10 of the Jharkhand Panchayati Raj Act, 2001 the Gram Sabha has been authorized to decide on the issue of MFP. Subject laws on MFP are not in compliance with PESA, 1996. Regarding inclusion of the provision in the State Forest Regulation, the State Forest Department has reported that the issue of transferring ownership to the Gram Sabha regarding MFP is under process.
6	Madhya Pradesh	There is a MFP federation that gives back the money collected by the sale of MFP to the individuals concerned. Subject laws on Minor Forest Produce are not in compliance with PESA.
7	Maharashtra	54B (g) of the Bombay Village Panchayat Act, 1958 provides that every Panchayat in the Scheduled Areas shall be competent to regulate exploitation, management and trade of MFP vested in it, subject to the provisions of the Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas, and the Maharashtra Minor Forest Produce (regulation of Trade) (Amendment) Act, 1997. Subject law on MFP is not in compliance with PESA.
8	Orissa	Section 44(2) (b) of the Orissa Gram Panchayat Act, 1964 provides that ownership of the MFPs in the Scheduled Areas is vested in the Gram Panchayats. The Orissa Gram Panchayat Minor Forest Produce (Administration) Rules, 2002 prescribes the manner in which regulation and control of trade in MFP is to be done by Gram Panchayats in Scheduled Areas. There are 69 items included in list of MFP.
9	Rajasthan	Section 8E of the Rajasthan Panchayati Raj Act, 1994 entrusts the power of management of MFP to the Gram Sabha subject to such conditions and up to such extent and in such manner as may be specified by the State Government from time to time.

Source: Press Information Bureau, Government Of India. Last accessed on 1.5.2014 at 3.15 pm. Available at <http://www.pib.nic.in/newsite/erelease.aspx?relid=60950>.

³¹⁴ Rule 8(II) of the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011.

Gram Sabha consent is frequently overridden and forest land is illegally diverted, as the examples below will indicate:

Example 1: Essel and Mining Company Ltd case in Keonjhar district, Orissa

It appears that no recognition of rights under the FRA is taking place in the mineral rich mining areas of districts like Keonjhar (under Schedule V). Instead, the administration has been facilitating illegal diversion of forest land to mining companies by engineering fraudulent Gram Sabhas of the concerned villages. In a case concerning diversion of forest land for Essel and Mining Company Ltd., an MLA from Jharsuguda, Naba Kishore Das, wrote a complaint to the Union Tribal Affairs Secretary, MoTA. The Union Secretary called for records pertaining to the alleged Gram Sabha approval of the forest land diversion. During his visit to the area, the Secretary examined Gram Sabha records and found that Gram Sabhas were held in Jalahari, Bholbeda, Jajanga Jurudi, Banspani and Khuntpani villages coming under Joda –Badbil Tahasil on 1st Nov 2013 for obtaining their consent for the diversion of 342.602 ha of forest land out of the total area of 456.1 ha for Essel Mining and Industries Ltd. It was found that in the same meeting it was decided that the villagers had no forest rights and that they had no objection to the diversion of the concerned forest land. His observations were as follows:

“The notice which had been issued showed that a meeting had been convened to obtain approval of Gram Sabha for transfer of forest land to Essel Mining and Industries Limited. In the same meeting, forest rights were to be ascertained. The minutes of the meeting show that in the same meeting it was decided that the villagers have no forest rights. It was also decided that they had no objection to transfer of forest land to the firm. This is in complete violation of FRA. The process envisaged under FRA has to be completed before the transfer of forest land for non-forest use is considered under the Forest Conservation Act. Therefore, the transfer of forest to the firm is invalid.”

Terming the procedure in violation of the FRA as completion of the recognition of rights needs to be undertaken prior to any discussion on the diversion of forest land, the Secretary termed the approval for diversion invalid and advised the Collector to withdraw the approval.

On further investigation, the district administration has claimed that no claims were received for forest rights during Gram Sabha meetings held earlier and it is only after that that the Gram Sabhas seeking consent for forest diversion were held. The matter is under further investigation as a large number of the tribal families in the above villages have no titles for the land they are cultivating yet none of them ostensibly filed any claims for recognition of forest rights.

Example 2: Mahan Coal block in Singrauli district, Madhya Pradesh

The Mahan coal block was granted in-principle (Stage I) forest clearance by the MoEF on 18th October 2012, after substantial pressure from the Group of Ministers

(GoM) on coal mining, after the MoEF had rejected it on environmental and ecological grounds. This approval was for the diversion of 1182.351 ha of forest land and was conditional on, among others, completion of the recognition of forest rights.

Yet, not a single community forest right has been recognized in the Singrauli district where there are a large number of forest land diversions taking place for non-forest use. Several representations written by the affected parties to the authorities on the issue of non-implementation of FRA in this region have yielded no results whatsoever.

Villagers in Amelia and Suhira were not allowed to make their CFR claims at the Gram Sabha meeting held on 15th August 2012 despite the fact that 300 people attended the meeting that day. Stage- I conditional forest clearance was granted for mining of the Mahan Coal Block in Madhya Pradesh on 30th October 2012 without detailed assessments of social and ecological impacts or obtaining Gram Sabha consent required under MoEF's 2009 order.

Following this, the administration organized a special Gram Sabha on March 6, 2013 which was attended by only 184 persons. However, over 11000 signatures were forged onto the resolution which included the signatures of some dead people. Despite strong protests by the villagers, including letters written in their support by the Minister of Tribal Affairs to the Madhya Pradesh Governor and Chief Minister, MoEF granted final forest clearance for the Mahan coal block in February 2014.³¹⁵

Example 3: Polavaram Project

The Polavaram Project has now been given national status. The Union Cabinet has approved the setting up of the Polavaram Project Authority, where the Centre will provide funds for the project and help in getting environmental and forest clearances.³¹⁶ The Environmental Impact Assessment (EIA) of the project says 276 villages will be affected; an estimated 177,275 people live in these villages. The Polavaram Project Environmental Impact Appraisal Report of 1985 expected 150,697 people to be displaced in 226 villages. But the population of these villages according to the Census 2001 is much higher—236,834. State officials find it hard to explain the difference of 59,559 while estimating the number of people who will be

³¹⁵See also, "Deo slams Madhya Pradesh government for denying forest rights to tribals in Mahan", Anupam Chakravarty, *Down to Earth*, Jul 20, 2013. Available at <http://www.downtoearth.org.in/content/deo-slams-mp-government-denying-forest-rights-tribals-mahan>. Last accessed on 7.5.2014 at 5.15 pm.

³¹⁶See "Centre clears Polavaram Project Authority", M.L. Melly Maithreyi, *The Hindu*, 1st May 2014. Available at <http://www.thehindu.com/news/national/andhra-pradesh/centre-clears-polavaram-project-authority/article5966536.ece>. Last accessed on 3.5.2014 at 5.00 pm.; "Polavaram project: Odisha awaiting Union Cabinet's report", BS Reporter, *Business Standard*, 3rd May 2014. Available at http://www.business-standard.com/article/economy-policy/polavaram-project-odisha-awaiting-union-cabinet-s-report-114050300764_1.html. Last accessed on 3.5.2014 at 240 pm.

displaced.³¹⁷ According to a report by the Central Empowered Committee the table below illustrates the number of affected families.

Table 9.5: Number of settlements and people affected by Polavaram Project

State	No. of settlements	No. of project affected families	No. of population affected
Andhra Pradesh	276	44,574	1,77,275
Chhattisgarh	4	2,335	11,766

The report also says that “out of the above, 14.94 percent are Scheduled Castes, 48.67 percent Scheduled Tribes, 17.45 percent backward classes and the balance 18.94 percent, fall in other categories.”³¹⁸ However, this report is dated 2006. The figures have not been updated since then. This is contrary to the Draft National Tribal Policy that states,

“There shall be a threshold of displacement viz. the maximum number of persons that can be displaced in one project. Projects involving displacement of more than a fixed number, say 50000, would not be considered, if the majority are Scheduled Tribes, or would be subjected to more stringent appraisal norms.”

However, the project has acquired greater complexity in light of the Andhra Pradesh Reorganization Bill, approved by the Union Government, whereby the villages to be submerged are now located in Seemandhra, originally in the Telangana region. The bill as passed by the Lok Sabha States that:

- “90. (1) *The Polavaram Irrigation Project is hereby declared to be a national project.*
- (2) *It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of the Polavaram Irrigation Project for the purposes of irrigation*
- (3) *The consent for Polavaram Irrigation Project shall be deemed to have been given by the successor State of Telangana.*
- (4) *The Central Government shall execute the project and obtain all requisite clearances including environmental, forests, and rehabilitation and resettlement norms.”³¹⁹*

Though, the clearance of the project is subject to the settlement of claims under the Forest Rights Act,³²⁰ a number of people have had their claims rejected. The reason

³¹⁷ See “Why Polavaram is a pointless project”, Cover Story, Down to Earth, 15th May 2011. Available at <http://www.downtoearth.org.in/content/why-polavaram-pointless-project>. Last accessed on 26.2.2014 at 430 pm.

³¹⁸ See Report by Central Empowered Committee, Constituted by the Supreme Court of India in Writ Petition NO. 202/95 AND 171/96) bearing number F. No. 1-19/CEC/SC/2006-Pt. XII dated 15.11.2006.

³¹⁹ See S. 90 of the Andhra Pradesh Reorganization Bill, Bill No. 8-C of 2014, as passed by Lok Sabha on 18.2.104. A copy of the bill is available at <http://www.prsindia.org/uploads/media/Telangana/Telangana percent20Bill%20as%20passed%20by%20LS.pdf>.

was that their villages were going to be submerged anyway.³²¹ A fact finding team comprising Dr. B.D. Sharma, Former National Commissioner for Scheduled Castes and Tribes, Dr. Jayashankar, former Vice-chancellor, Kakatiya University, Dr. I. Thirumali, Reader in History, Sri Venkateswara College, University of Delhi, G N Saibaba, Lecturer in English, University of Delhi, Shirish Medhi, Social Activist from Mumbai, Dr. Gopinath, Eminent Cardiologist, Andhra Pradesh, Rona Wilson, Research Scholar, Jawaharlal Nehru University, Ajay Mishra, Reporter, Sunday Post (Hindi), Suresh Kumar, Advocate, Hyderabad, Ch. Prabhakar, Advocate, Hyderabad and Ravichandra, Teacher, AP Government Residential Schools, toured nine mandals in the districts of Khammam, East and West Godavari districts that are to be affected by the Polavaram Dam Project between 3rd March and 6th March, 2007. They reached the following conclusions:

In Maredubaka village in Kukunoor Mandal, people passed resolutions against Polavaram dam and the Resettlement & Rehabilitation package offered by the Government. Resolutions were ignored, suppressed and manipulated. Some Mandal Praja Parishads (MPP) also have passed resolutions against the construction of the dam but time and again over the last one year the officials have not accepted or recorded the written resolutions sent by the MPPs as told by Kantepale Raju, Sarpanch of Maredubaka and also by the sarpanch of Amaravaram of Kukunoor mandal.³²² They also noted that in Paidipakka village in Polavaram mandal, the District Collector sat in the Gram Sabha along with armed police force. There he told the people that the government can't pay more than 1.3 lakhs and the villagers had no other option but to leave.³²³ This is in keeping with other reports³²⁴ that state an absence of public hearings and faulty clearances.

Example 4: Public hearings are mandated both under the Environmental Impact Assessment Notification, 2006³²⁵ as well as the PESA

In an appeal before the National Green Tribunal (NGT) challenging the Environmental Clearance (EC) granted to a Coal Mining Project by M/s Jindal Steel and Power Limited at Raigarh District of Chhattisgarh State by the Ministry of

³²⁰ See Press Release by MoEF, "Indira Sagar(Polavaram) Multipurpose Project on Godavari River in Andhra Pradesh given final clearance under FCA, 1980", dated 28th July 2010. Available at [http://moef.nic.in/downloads/public-information/Indira%20Sagar%20\(%20Polavaram\).pdf](http://moef.nic.in/downloads/public-information/Indira%20Sagar%20(%20Polavaram).pdf)

³²¹ See "Telangana betrays its tribals", M. Suchitra, Down to Earth, 15th March 2014. Available at <http://www.downtoearth.org.in/content/telangana-betrays-its-tribals>. Last accessed on 30.3.2014 at 127 pm.

³²² See <http://singur-singur.blogspot.in/2007/04/all-india-fact-finding-report-on.html> and also <http://www.downtoearth.org.in/content/polavaram-fraud>

³²³ See *All India Fact-finding Report on Polavaram Dam Project*, Preliminary Report, published on a blogpost entitled "Singur" on 1st April 2007. Available at <http://singur-singur.blogspot.in/2007/04/all-india-fact-finding-report-on.html>. Last accessed on 1.5.2014 at 345 pm.

³²⁴ See "Polavaram project in legal wrangle", Kirthiman Awasthi, Down to Earth, 31st January 2008. Available at <http://www.downtoearth.org.in/node/4085>. Last accessed on 16.3.2014 at 1125 am.

³²⁵ A notification under sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 dated 14th September, 2006 by the MoEF states that "III. Stage (3) - Public Consultation: (i) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in the project or activity design as appropriate."

Environment and Forests, the NGT in an order dated 20th April, 2012³²⁶ held that the public hearing conducted on 5.1.2008, was a “farce” and a “mockery” of the procedure required to be followed.

The Tribunal went on to say that:

“the way in which the proceedings are conducted is nauseating and no reasonable person would accept that it was conducted fairly and much less properly. This is not a case where there are a few ignorable procedural lapses in conducting the public hearing. This is a case of a mockery of public hearing, one of the essential parts of the decision making process, in the grant of Environmental Clearance. This is a classic example of violation of the rules and the principles of natural justice to its brim.”

Similarly, in Chhattisgarh, Korba district, villagers are resisting 36 coal-fired power plants that seek to acquire close to 40,000 acres. In 2010, after a Gram Sabha hearing to discuss the land acquisition proceedings, the District Collector there reportedly recorded that there is no legal basis for the Gram Sabha's objections and the issues raised.³²⁷

9.4.2 Amendment to the PESA

The proposed PESA Amendment seeks to change the existing law by providing for “prior informed consent” of the Gram Sabha to be mandatory before any land acquisition, which will bring it in tune with international developments where free prior informed consent has evolved as a precondition to the location of projects, and its consequences.³²⁸ The proposed amendment also mandates “prior informed consent” of the Gram Sabhas before granting of prospecting license or mining lease for minor minerals in the Scheduled Areas and before granting of concession for the exploitation of minor minerals by auction.³²⁹

9.4.3 Linear Projects

On 5 February 2013, a letter was issued from the MoEF exempting linear projects from the requirement of obtaining consent from Gram Sabhas under the Forest Rights

³²⁶ See *Adivasi Majdoor Kisan Ekta Sangthan and Jan Chetna v. MoEF, Chhattisgarh Environment Conservation Board, M/s Jindal Steel & Power Limited, Appeal No. 3/2011 (T) (NEAA No. 26 of 2009)*

³²⁷ See “No public, just hearings for mega projects”, Aman Sethi, *The Hindu*, 15th January 2012. Available at <http://www.thehindu.com/todays-paper/tp-miscellaneous/tp-others/no-public-just-hearings-for-mega-projects/article2802951.ece>. Last accessed on 24.1.2014 at 300 pm.

³²⁸ Draft amendment Panchayats (Extension to the Scheduled Areas) Bill, 2013, “In section 4 (i) of the Principal Act, the word ‘Prior informed consent of’ shall be inserted before the words ‘the Gram Sabha or the Panchayats’ and the word ‘consulted’ shall be substituted by the word ‘taken’ after the words ‘appropriate level shall be’ and before the words ‘before making the acquisition’.

³²⁹ See Draft Amendment Panchayats (Extension to the Scheduled Areas) Bill, 2013, “In section 4 (k) of the Principal Act, - For the word ‘recommendations’, the word ‘prior informed consent’ shall be substituted. Before the words ‘minor minerals’, the word ‘major and’ shall be inserted.

Act: ‘This ministry has received representations from various ministries to exempt projects ... where linear diversion of forest land in several villages are involved, from the requirement of obtaining consent of Gram Sabha, as stipulated in this ministry’s said letter dated 3-8-2009.’³³⁰

The matter has also been examined by an inter-ministerial committee.³³¹ The committee, after examination of the matter had inter alia recommended that a resolution of the Gram Sabha of the area based on full and prior information of the project and a public hearing, endorsing that the project is in the interest of the people living on forest land, use of which is proposed to be diverted for non-forest purposes may not be required for the projects like construction of roads, canals, laying of pipelines/optical fibres and transmission lines etc. where linear diversion of use of forest land in several villages are involved, unless recognized rights of Primitive Tribal Groups (PTG) and Pre-Agricultural Communities (PAC) are being affected.”

The letter says that the Minister for Tribal Affairs had agreed with this recommendation.

There were further circulars to this effect on 3rd August, 2009 and 15th January, 2014. On 7th March, 2014, the Ministry of Tribal Affairs had to issue a notice to all Chief Secretaries clarifying ‘the correct position in law’.³³² It said:

- The FRA “does not provide any exemption to any category of projects”.
- “Compliance with the provisions of FRA in no way counters the provision of basic developmental initiatives, particularly in less developed Scheduled Areas. In fact, Section 3(2) of the Act expedites projects meant for forest dwellers”.
- “The central role of the Gram Sabha in the developmental initiatives is not unique to the FRA 2006. It also finds mention in the PESA where consultation with Panchayats is a necessary precondition for alienation of any land in the Scheduled Areas for development projects. The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 also requires consent of the Gram Sabha for acquisition of land in Scheduled Areas for development”.
- The Supreme Court, in its 2013 decision where the tribal hamlets in Niyamgiri were asked to be consulted in their Gram Sabha, has reiterated that the proper process has to be followed for the determination of community forest resource rights and that the decision has to be taken by the Gram Sabha.

³³⁰Letter dated 5th February 2013, F.No11-9/98-FC (pt.) Government of India, MoEF (FC Division).

³³¹ *Ibid.*

³³² Letter from MoTA dated 7th February 2014, No.23011/02/2014-FRA.

“In view of the above, compliance with FRA is a mandatory requirement before forest land can be diverted. Failure to do so would be a violation of law.”

This was issued with the approval of the Minister, Tribal Affairs and Panchayati Raj.

This instance is symptomatic of the disregard for laws that have been enacted to protect the interests of Scheduled Tribes and Other Traditional Forest Dwellers. There is no answerability when this deliberate disrespect for the law is manifest. It was pointed out to us that the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act 1989 prescribes punishment where a person, not being a member of a Scheduled Caste or Scheduled Tribe “wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water”.³³³ The serious consequences of depriving tribals of their land is recognized in the Atrocities Act, 1989, and must inform public policy. Development projects and infrastructure projects are being allowed to relegate laws made to safeguard tribal interests to irrelevance.

Any land that may have been taken over by following the letters/notices of the MoEF dated 5th February, 2013, 5th July, 2013 and 15th January, 2014 must be restored to the community.

9.5 Land Acquisition Law of 2013, Forest Rights Act, 2006 and PESA, 1996

The Land Acquisition Law, 2013³³⁴ that replaced the Land Acquisition Act, 1894 brings the Scheduled Tribes and those covered by the Forest Rights Act within this law, and considers the possibility of involuntary displacement from land and habitat. Unlike the 1894 Act, this law expressly provides for acquisition for private companies and for projects to be executed through public-private partnership. There is an implicit erosion of the principles relating to land alienation in the Fifth Schedule areas which does not allow transfer of land from a tribal to a non-tribal. Just by way of clarification, private companies are non-tribals.

The Land Acquisition Law, 2013 has been enacted at a time when the potential of the Forest Rights Act to bring forest dwellers out of the disabilities induced by illegality is still being worked out. There are multiple hurdles that communities have been experiencing in having their rights to the forest recognized. While there has been some movement on recognition of individual rights, community rights and the rights of access are still in the initial stages of being understood and implemented. The 2013 law, however, reveals an impatience to get forest and Fifth Schedule land into the

³³³ Section 3(1), *The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*.

³³⁴ *The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013* [hereinafter, *Land Acquisition Act, 2013*].

process of forcible acquisition. Although the 2013 law acknowledges that there are special provisions in relation to land in Scheduled Areas, and that the Forest Rights Act is a piece of legislation that is about recognizing rights and not about opening up the land for transactions, yet it speaks of involuntary displacement for a project.³³⁵ So, in Section 41 of the 2013 law, it says:

“(1) As far as possible, no acquisition of land shall be made in the Scheduled Areas. (2) Where such acquisition does take place it shall be done only as a demonstrable last resort.” The qualifying phrases leave the field wide open to interpretation and use. In clause (3) the law speaks of prior consent of the Gram Sabha or Panchayat or Autonomous District Council. Yet, this is immediately followed with provision for “projects involving land acquisition on behalf of a requiring body which involves involuntary displacement of the Scheduled Castes’ or the Scheduled Tribes’ families...”

The Constitution does not treat eminent domain as a flat doctrine. It does not apply equally or in an identical manner in all territory within India. Scheduled Areas, forests, and the rights of tribal communities to land have been specifically treated distinctly from other private holdings of land. The Land Acquisition Law, 2013, in attempting to make more land available for development projects, is still poised to defy the constitutional and legal principles in relation to landholding, land ownership, land use and land alienation in tribal areas.

9.6 Land alienation: Kerala

In 2001, landless tribal communities in Kerala, represented by their leader Shri C.K. Janu, entered into an agreement with the Chief Minister under which all landless tribal families in the State would get land not exceeding 5 acres.³³⁶ Two years on, and the land allotments promised were not implemented at all. In a symbolic and strategic move, the community decided to enter the Muthanga forests and occupy the land.³³⁷ The decision to move to Muthanga evolved out of widespread consultative process across the state’s tribal belt- where a 60 member tribal court declared that since the agreement was being openly disregarded, the community should assert their rights by occupying the land. A month later, a part of the forest area occupied by the tribals including hutments were set on fire and property destroyed allegedly by police and government officials. The tribals ‘took captive’ about twenty state police and Forest Department officials. Statements of these officials were recorded, and thereafter, they were handed over, unharmed, to the District Collector. Meanwhile, 500 armed policemen and forest officials descended on the area, and around 300 tribals were reportedly arrested. According to the People’s Judicial Enquiry Commission headed by Justice Shamsher and Justice Shamshuddin, men and women were rounded up and

³³⁵ Section 41(4), Land Acquisition Act, 2013.

³³⁶ R. Krishnakumar, *The Muthanga misadventure*, *The Frontline*, March 15 - 28, 2003.

³³⁷ C.R. Bijoy, *Adivasis Betrayed: Adivasi Land Rights in Kerala*, *Economic and Political Weekly* 29 May, Vol. XXXIV, No. 22, 1999.

taken to the police station and many were beaten ruthlessly.³³⁸ Though the government record states that there were two deaths, a tribal and the other a policeman- many unofficial accounts point to a higher number of deaths.

The intensity of conflict this demonstrates can be explained in the context of a long history of marginalization, perpetual landlessness, laws that have bypassed constitutional obligations, and High Court orders that have been consistently ignored by the Government. In Kerala, more than 30 per cent tribal households are landless and the highest proportions are from Wayanad and Palakkad districts. Given the large influx of non-tribals, large tracts of arable land have been encroached upon.

The sub-committee constituted by the Kerala state assembly in 1976 conducted a study on land alienation in the Wayanad district. The study examined 298 cases and it was found that 71 were grabbed by force, 67 were grabbed for miniscule sums, while the rest for a very small amount.³³⁹

In 1975, the State government passed the Kerala Scheduled Tribes Act (Restriction on Transfer of Lands and Restoration of Alienated Lands), later incorporated into the Ninth Schedule. The Act renders all transactions of adivasi lands between 1960 and 1982 invalid and restores land to the original owners. The Act also restricts transfer of adivasi lands to non-adivasis from 1982, without the prior consent of the authorities.

The 1986 Rules finally operationalized the Act, but even so there were no steps taken towards their implementation. Of the 8754 claims, filed by adivasis for about 9910 hectares till 1991, only about 545 hectares were restored. Acting on a petition filed in 1988, in October 1993, the High Court passed an order directing the government to “dispose of the applications pending before them within six months”.

Faced with pressure from the High Court, an amendment the ‘Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Bill, was passed in 1996 to avoid contempt of court proceedings. The President of India, however, rejected this amendment which substituted restoration of original lands with providing ‘alternate lands’ up to 5 acres only. Finally, in 1999, the state government replaced the 1975 legislation with the Kerala Restriction on Transfer and Restoration of Lands to Scheduled Tribes Act, 1999. The Act provided that only land in excess of two hectares would be restored, and in all other cases alternate land would be given to the extent of two hectares. The number of applicants claiming more than two hectares was negligible, so in practical terms, the stated intent of the law to provide for ‘restoration’ of land was rendered meaningless.

³³⁸ *People's Judicial Enquiry Commission, Preliminary report on Muthanga, 17 March 2003 available at <http://www.pucl.org/Topics/Dalit-tribal/2003/muthanga-report.htm>.*

³³⁹ *C.R. Bijoy, Adivasis Betrayed: Adivasi Land Rights in Kerala, Economic and Political Weekly 29 May, Vol. XXXIV, No. 22, 1999.*

It is pertinent to note that neither the 1975 Act nor its successor, the 1999 Act, were able to address the issues of lack of documentary proof to establish past land ownerships.

The intention behind the 1975 Act was entirely negated, first, through systematic refusal to implement and then through the enactment of the 1999 Act, which renders that intention meaningless. Judicial response has been weak and unable to curb inaction and evasion by the State. Finally the brutal repression of the occupation of the Muthanga forests by tribals has only spurred a spate of such occupations- a demonstration of anger and loss of faith in the state machinery.

9.7 Memoranda of Understanding (MoUs)

In recent years, state governments and corporations have been entering into MoUs which impose a responsibility on the state to facilitate various aspects of their projects.³⁴⁰ The proliferation of such MoUs is noticeable. For instance, Chhattisgarh has reportedly entered into 121 MoUs for industries relating to coal, sponge iron, railways, and electricity. Jharkhand has also signed 74 MoUs for Mega Investment, indicating a total investment of Rs 2,93,360.33 crores in Project Cost.³⁴¹ As on 2011, there are another 25 MoUs Jharkhand has signed with a total investment cost of Rs78,871.83 Cr and reportedly providing employment to 1,20,320 persons.³⁴²

Many of these MoUs pertain to Fifth Schedule Areas. These are some common clauses found in these MoUs:

“The Government agrees to acquire, the required land.....and hand over the required land free from all encumbrances to SEL through Orissa Industrial Development Corporation (IDCO) for the project and allied facilities.”

Source:MOU between Sterlite Energy(P) Ltd. And the Govt. of Orissa dated 29th Sept. 2006

“Government agree to assist BEL .in obtaining all clearance/permits/approvals from the Central Government, State Government departments or agencies, Regulatory Commissions and Local Bodies(Municipal, Panchayat, etc.)”

Source:MOU between Bhusan Energy(P) Ltd. And the Govt. of Orissa dated 29th Sept. 2006

“(a) The Govt. of Jharkhand agrees to forward proposal of M/s Essar Steel Jharkhand Ltd.(ESJL) in obtaining NOC through the State Pollution Control Board for the construction of Plant, the housing colony, mines, pipelines etc.

(b) Government. of Jharkhand agrees to forward proposal of M/s Essar Steel Jharkhand Ltd. In obtaining necessary clearances from the Central Government.

³⁴⁰ Individual copies of signed MOUs from the websites of the Governments of Odisha and Jharkhand are available. A list of MOUs entered into by the Government of Chhattisgarh is available.

³⁴¹ Development via State Terror in Jharkhand(A report by the INSAF Fact Finding Team into the Police Firing on 6th December, 2008 at Kathikund, Dumka District, Jharkhand).

³⁴² See a copy of list of MoUs available at <http://jharkhandindustry.gov.in/> last accessed on 9.5.2014 at 12.00 pm.

(c) M/s Essar Steel Jharkhand Ltd. Will arrange to conduct a Rapid Environment Impact Assessment (EIA) an detailed EIA and prepare an Environment management Plan(EMP) for the project. The Govt. of Jharkhand agrees to extend any assistance in the shape of providing data/information available with it during the time when the EIA is conducted and EMP is prepared.”

Source: MOU between Essar Steel Jharkhand Ltd. and the Government of Jharkhand dated 6th July 2007

These MoUs, it has been pointed out to us, change the relationship between the state and the corporation, and the state and project affected people. For instance, in Fifth Schedule Areas, it is the legal and constitutional obligation of the state to ensure that tribal land alienation does not occur, causing detriment to the interests of the tribals.³⁴³ The Samatha judgment³⁴⁴ of the Supreme Court was a reflection of this understanding. The court in that case held, “the State Government...stands prohibited to transfer by way of lease or any other form known to law, the Government land in Scheduled Area to non-tribal person, be it natural or juristic person except to its instrumentality or a Co-operative Society composed solely of tribes”. Yet, MoUs such as those described here, or the one that the Orissa Mining Corporation entered into with Vedanta, conveniently makes the transfer of land in Scheduled Areas into a contractual arrangement, in a complete breakdown of constitutional principles safeguarding tribal interests.

In 2005, when the Government of Orissa entered into a MoU with POSCO, which is now a contentious project and where local people including tribals have been protesting land acquisition for the project, it included a clause that read:

- “(i) The Government of Orissa agrees to facilitate and use its best efforts to enable the Company to obtain a “No Objection Certificate” (NOC) through the State Pollution Control Board in the minimum possible time for the development and operation of the Project.*
- (ii) The Company will conduct a rapid Environment Impact Assessment (“EIA”) and prepare a detailed EIA Report and an Environment Management Plan (“EMP”) for the Project. The Government of Orissa agrees to provide any assistance requested by the Company during the time the EIA is conducted and the EMP is prepared.*
- (iii) The Government of Orissa agrees to use its best efforts to procure the grant of all environmental approvals and forest clearances from the Central Government within the minimum possible time for the Project.”³⁴⁵*

Again, environmental laws have been made to protect both the environment and those depending on it. The onus that the state casts on itself through such MoUs results in a

³⁴³ This is despite the report of the Comptroller and Auditor General of India revealing irregularities in Odisha’s land acquisition proceedings as well as failure to comply with sanctions contained in the MOUs that it signs with companies. See Audit Report (Civil) for the year ended 31 March 2011, Report of the Comptroller and Auditor General of India on the Government of Odisha.

³⁴⁴Samatha v. State of Andhra Pradesh, AIR 1997 SC 3297

³⁴⁵ A copy of the MoU is available at <http://www.odisha.gov.in/posco/POSCO-MoU.htm> last accessed on 9.5.2014 at 4.00 pm.

dilution of procedures such as EIA. This amounts to a clear overriding of statutory provisions.

These MoUs have been criticized for prioritizing the interests of the corporations over those of the tribals and local populations. The state is expected to protect the tribal from losing land through land alienation, preserve the environment and protect the forest. Even if the state's prerogative is 'rapid industrialization', the responsibilities it sets for itself through the MoUs would dilute the law³⁴⁶, and this is a disturbing trend that has spread across states. For example, the MoU between the Government of Orissa and POSCO (2005) includes these clauses:

"A dedicated High Powered Committee shall be constituted jointly by the Government of Orissa and the Company to ensure that the Project proceeds as per the planned schedule. The High Powered Committee shall include as permanent members, senior officers of the departments of Steel and Mines, Industries, Energy, Water Resources, Works, Commerce and Transport, Environment and Forests and representatives from the Company. The Government of Orissa shall arrange for representatives of other departments to be present for each meeting as required."

"Immediately following the execution of this MoU, the Government of Orissa shall second (at its own cost) to the Company's Project office in Bhubaneswar, an Officer of the appropriate level to be dedicated to the facilitation of the Project"

Source: MOU between Govt. of Odisha and M/s POSCO dated 22nd June, 2005

The altered understanding of the role that government officials are claiming for themselves, namely getting projects started, is setting at naught, the responsibilities that they owe the tribals, and subverts the law.³⁴⁷

There is a further clause that is found in recent MoUs, to which our attention was drawn. It reads:

"The Government and its concerned departments or agencies will facilitate and assist JSPL during various stages of the project as also of the captive coal mine, in a smooth and unhampered manner by maintaining the law and order in the Project area and its vicinity."

Source: Copy of the MOU between Jindal Steel and Power Ltd. and the Government of Orissa dated 7th February, 2009

³⁴⁶ The State of Jharkhand's Industrial Policy states that, "After the creation of the State of Jharkhand on 15th November 2000, to optimally utilize the available resources of the State in a planned manner and to accelerate the industrial development of the State, an Industrial Policy has been formulated. To achieve expected industrial growth, the districts of the State have been categorized into three categories, so as to capitalize the industrial potential through planned utilization and development of natural and human resources and to gradually increase the employment opportunities."

Available at <http://www.jharkhandindustry.gov.in/industry-policy.html>. Last accessed on 9.5.2014 at 2.00 pm.

³⁴⁷ The Government of Jharkhand in an MoU dated 9th July 2007 with M/s Essar Steel Jharkhand Ltd. has stated that it is "desirous of utilization of its natural resources and rapid industrialization of the State, so as to bring about prosperity and wellbeing to its people and has been making determined efforts to facilitate setting up new industries in different locations in the State. In this context the Govt. of Jharkhand is willing to extend assistance to suitable promoters to set up new industries." The MOU goes on to ensure Essar Steel of rapid environmental and forest clearances, No Objection Certificates, supply of water, iron ore, coal and land, all of which will be provided by the Government of Jharkhand.

“The Government of Orissa will take action to provide overall security as per applicable law, as may be required to all parts of the Project during the operation phase. All necessary steps in this regard including setting up of police stations, if required, would be taken by Government of Orissa.”

Source: Copy of the MOU between POSCO and the Government of Orissa dated 22nd June, 2005

The development paradigm adopted by states has raised questions from many quarters, and is manifest as protest, resistance, dharnas and court challenges. It is frequently seen that protestors are subjected to the heavy hand of the law, and find themselves arrested, charged with a variety of offences including even stringent provisions of the law such as sedition. There have been many occurrences of crackdown on displaced people, people from whom land has been taken for the project and on those protesting the location of a project. These have been documented in a variety of ways including video recordings³⁴⁸, fact-finding reports, and in national dailies and magazines. There is little to indicate that the concerns of the local people which is expressed in the protests and movements of resistance is being addressed. (see later section). This has had the effect of criminalizing protest.

It appears that some MoUs have begun to take shape between the state and civil society organizations. Its purpose is significantly different from that seen in MoUs of the state with corporations. Where the latter sought to ensure that the law would not be a hurdle to the progress of their project, the former was to work for the implementation of the law. The draft MoU that the committee saw was a memorandum to ensure that the Forests Rights Act is properly implemented.

9.8 Cabinet Committee on Investment (CCI)

The Cabinet Committee on Investments was an institutional apparatus set up to aid the government in pushing ahead with its agenda of growth and project development, especially of large projects.³⁴⁹ The logic, and functioning, of the CCI shows an impatience with what the law says, with Gram Sabha autonomy, and with the FRA.

The CCI was constituted in 2013 specifically to expedite clearances of projects worth Rs. 1000 crores or more.³⁵⁰ The CCI *raison d’etre* was the expeditious clearance to be given to projects and to remove impediments that the CCI saw as delaying projects. Disturbingly but not unexpectedly, land acquisition, FRA implementation, environmental clearances and Gram Sabha consent were in focus. Decisions made by

³⁴⁸ See “Blood Stains in Jindal Steel, Orissa”, a video dated 25th January 2012 by Samadrusti Televisions at <http://www.youtube.com/watch?v=1tU7uphTnLw>. Last accessed on 9.5.2014 at 1.00 pm.

³⁴⁹ The Cabinet Committee on Investment was constituted with the approval of the Prime Minister on 2nd January 2013 vide notification No. 1/11/3//2012-Cab, Govt. Of India, Cabinet Secretariat. Available at http://cabsec.nic.in/showpdf.php?type=cci_notification. Last accessed on 17.4.2014 at 4 pm.

³⁵⁰ The functions of the CCI are, among others, “to identify key projects required to be implemented on a time bound basis, involving investments of Rs 1000 crores or more, or any other critical projects, as may be specified by the Committee, in sectors such as infrastructure, manufacturing, etc.” Available at http://cabsec.nic.in/showpdf.php?type=cci_notification. Last accessed on 17.4.2014 at 4 pm.

the CCI allow the FRA to be bypassed. The status report of the CCI dated 22.3.2013³⁵¹ stated that since obtaining Gram Sabha consent for each linear projects is time consuming, the MoEF issued an OM stating that this is not necessary anymore. Further, the notification also says that “for one time capacity expansion of 25 percent or less, coal mining projects have now been exempted from public hearing provided that public hearing had taken place at the time of obtaining the existing EC and the mining is confined to the existing lease area. This would help boost production of coal which is in short supply in the country.” This limit has now increased to 50 percent, as per a MoEF OM, 2014 also exempt from public hearing. The CCI has iterated that this is a good policy decision to avoid delays in projects.

This is a blatant instance of the flouting of laws, relating to Scheduled Tribes, OTFD, forests and the environment. This is a case of expediency, as defined by the executive government – over principle, law and the lives of tribal communities. This deliberate subversion of the law is possible, because there are no consequences for such breaches of law. It is necessary both to review the decisions that have been made by the CCI to undo the illegalities, which have resulted from its functioning; and to provide for penalties in the law, for such defiance of the law.

9.9 Niyamgiri

The FRA recognizes individual, community, traditional and cultural rights of Scheduled Tribes and other Traditional Forest Dwellers. This is a definite shift away from the Indian Forest Act, 1927 and its preceding laws which kept forest dwelling and forest dependent communities on the margins of legality. In 2006, when the FRA was enacted, the preamble to the Act acknowledged this when it said that this was “an Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other Traditional Forest Dwellers who have been residing in such forests for generations but whose rights could not be recorded...”

The forest laws that culminated in the Forest Act of 1927 vested control over the forests in the colonial state to assist it in its expansionist enterprise. It was with the Forest Conservation Act, 1980 that the extent to which forests were being lost to industrial and mining projects became a concern that had to be addressed urgently. Yet, the FCA 1980 only shifted the decision making from the states to the centre, even as ‘Environment and Forests’ was moved from the state to the Concurrent legislative list in the Seventh Schedule to the Constitution. While this may have provided pause in the decisions made to divert forests to non-forest uses, the model of development adopted, and the priorities of different governments, has made relentless demands that conservation and protection agenda be put aside and the interests of foreign direct investment, growth rate and corporate involvement in the economy be

³⁵¹ Cabinet Secretariat, Cabinet Committee on Investment Status update (as on 22.03.2013), available at http://cabsec.nic.in/showpdf.php?type=cci_status Last accessed on 17.4.2014 at 430 pm.

given priority. As the state has begun to enter into MoUs and agreements with corporations with promises of land, water, clearances and law and order, the concerns of local populations have been relegated to the periphery. This has also been a time when, even as laws are made to protect tribals, forest dwellers, the environment including forests, the law has been ignored and sidestepped.

It is in this context that the processes of decision-making in tribal areas have not been adhered to in many instances. The Supreme Court's decision in the Lafarge case³⁵² is revealing about how procedures could get subverted in the process of grant of permission for diversion of forest land for non-forest purposes in places inhabited by tribal communities. Lafarge was about quarrying for limestone in Meghalaya, and the forest clearance had been sought on the basis of a report that said that there were no forests in the area. This was later demonstrated that it is not an accurate statement of fact. Although there were around 1800 tribals in the affected area, in the first instance, it was recorded that 31 tribals had been consulted and, at a later date when the matter was in court, the views of 200 of them were said to have been heard. The spectrum of agencies had worked in ways that revealed severe weaknesses in regulation.

The court allowed the company to continue mining, while saying, "at times the court is faced with conflicting reports."

Similarly, the government is also faced with a *fait accompli* kind of situation, which in the ultimate analysis leads to grant of ex facto clearance." This is a severe indictment of how processes are violated and the purpose of the law overturned.

The Niyamgiri experience is iconic, demonstrating a clear break from before the time that the FRA was enacted. Niyamgiri hills is inhabited by the Dongria Khond, a Particularly Vulnerable Tribal Group. Vedanta Aluminium Ltd. approached the Supreme Court asking that the company be allowed to mine bauxite in the Niyamgiri hills to feed their aluminium plant located at the foothills. The Dongria Khonds opposed the mining, After two rounds of consideration by the Supreme Court, a hearing before the National Environment Appellate Authority,³⁵³ and two reports on the effect the project may have on the Dongria Khonds,³⁵⁴ the Supreme Court

³⁵² *Lafarge Umiam Mining Private Limited v. Union of India & Ors.* [(2011) 7 SCC 338]

³⁵³ See order of the NEAA dated 15th September 2010 in *Shri Prafulla Samantra v. MoEF and Ors.*, Appeal No. 18/2009, Appeal No.19/2009, Appeal No. 20/2009, Appeal No.21/2009 where the NEAA remitted the matter to the Ministry of Environment and Forest, "with direction to revisit environment clearance including the aspect of public hearing and take appropriate action. Till this process is over, the environment clearance stands suspended."

³⁵⁴ See *Site Inspection Report Concerning Violation for Diversion of 660.749 ha of Forest Land in Kalahandi (South) Forest Division and Rayagada Forest Division in favour of the Orissa Mining Corporation Ltd(OMC) for mining of bauxite in Lanjigarh Bauxite Mines*, by Dr. Usha Ramanathan, Dr. Vinod Rishi, Shri J.K. Tewari dated 11th February 2010; *Report of the Four Member Committee for Investigation into the Proposal Submitted by the Orissa Mining Company for Bauxite Mining in Niyamgiri* dated August 16, 2010 by Dr N C Saxena, Dr S Parasuraman, Dr Promode Kant, Dr Amita Baviskar, Submitted to the MoEF, Govt. of India. Also see *Recommendations of the Forest Advisory Committee in its meeting convened on 20th August 2010 in the Report of the Four Member Committee for Investigation into a Proposal submitted by the Orissa Mining Corporation Ltd. for Bauxite Mining in Niyamgiri (F.No. 8-23/2005-FC).*

directed, on 18th April, 2013, that the Gram Sabha needed to consider the rights that were being affected by the proposed mining.³⁵⁵ Excerpts:

39. *“Many of the Scheduled Tribes and other Traditional Forest Dwellers are totally unaware of their rights. They also experience lot of difficulties in obtaining effective access to justice, because of their distinct culture and limited contact with mainstream society. Many a times, they do not have the financial resources to engage in any legal actions against development projects undertaken in their abode or the forest in which they stay. They have a vital role to play in the environmental management and development because of their knowledge and traditional practices. State has got a duty to recognize and duly support their identity, culture and interest so that they can effectively participate in achieving sustainable development.*

55. *Religious freedom guaranteed to Scheduled Tribes and the OTFDs under Articles 25 and 26 of the Constitution is intended to be a guide to a community of life and social demands. The above mentioned Articles guarantee them the right to practice and propagate not only matters of faith or belief, but all those rituals and observations which are regarded as integral part of their religion. Their right to worship the deity Niyam-Raja has, therefore, to be protected and preserved.*

58. *We are, therefore, of the view that the question whether Scheduled Tribes and OTFDs, like Dongria Khond, Kutia Konds and others, have got any religious rights, i.e. rights of worship over the Niyamgiri hills, known as Nimagiri, near Hundaljali, which is the hill top known as Niyamraja, have to be considered by the Gram Sabha. The Gram Sabha can also examine whether the proposed mining area Niyama Danger, ten km away from the peak, would in any way affect the abode of Niyam-Raja. Needless to say, if the BMP, in any way, affects their religious rights, especially their right to worship their deity, known as Niyam Raja, in the hills top of the Niyamgiri range of hills, that right has to be preserved and protected. We find that this aspect of the matter has not been placed before the Gram Sabha for their active consideration, but only the individual claims and community claims received from Rayagada and Kalahandi districts, most of which the Gram Sabha has dealt with and settled.*

59. *The Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi districts. Any such fresh claims should be filed before the Gram Sabha within six weeks from the date of this judgment. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims.”*

The ‘Palli Sabhas’ were held in Niyamgiri between 18th July and 19th August, 2013 in twelve hamlets in Rayagada and Kalahandi districts, which the state government considered were likely to be affected by the mining.³⁵⁶ The proposed mining was unequivocally rejected by all twelve Palli Sabhas.

³⁵⁵ *Orissa Mining Corporation v. Ministry of Environment & Forest & Others, Writ Petition (Civil) No. 180 of 2011*

³⁵⁶ *English translation of Palli Sabha resolutions between 18th July and 19th August 2013 provided by the state government, on file with committee.*

9.10 Salwa Judum

Salwa Judum, translated variously as peace march, people's resistance movement or as purification hunt, was a government initiative in Bastar region. It was set up in 2005, to counter the naxalites presence in the area. Its mainstay was the SPOs (Special Police Officers) who were local tribal youth, some as young as 16 years, who were recruited, paid a stipend, armed and handed the task of fighting the naxalites. What resulted was a civil strife which displaced whole villages, rapes, excesses of power, murders and the burning of houses. The SPOs were projected as an essential part of the security apparatus of the state and they would act as guides, spotters and translators, and work as a source of intelligence, and firearms were provided to them, for their self-defense. The civil strife that ensued resulted in the emptying out of villages, forced migration in many cases into neighboring states, and the abandoning of their agricultural land, their livestock and other means of production and livelihood.

A report of the Planning Commission said:³⁵⁷

*“This involuntary displacement and migration has caused further distress among the tribals.....Through this process of forced migration, large mineral areas got vacated, where the mining corporate lessees are starting operation. Often the displaced people/villagers/tribals look on hopelessly and sometimes they seek support of the naxalite groups. Such situations create space for naxalite interventions.” Over the years, SPOs have turned into an institutionalised category, with greater numbers of unemployed tribal youth signing up as SPOs.*³⁵⁸

In a writ petition challenging the constitutionality of the Salwa Judum and the situation of human rights violations, it was perpetrated in Chhattisgarh in July, 2011, the court condemned the state of Chhattisgarh for allowing such atrocities to continue and raised concerns about the manner of recruitment, the qualifications and training of the SPOs. The judgment unequivocally condemned the use of local untrained youth as SPOs, arming them and giving them the task of becoming part of the security establishment with no preparedness to perform the task.³⁵⁹

Two important developments arose subsequent to the Salwa Judum judgment. One, a clarification was issued by the Supreme Court stating that: “Under the July 5 judgment we have asked the Union of India to cease and desist from using any funds directly or indirectly for SPOs. The order as passed was in the context of Chhattisgarh and (the) Solicitor-General...has observed that it should be confined to Chhattisgarh, otherwise it will create a great deal of law and order problem in other States.” This

³⁵⁷ *Development Challenges in Extremist Affected Areas — Report of an Expert Group to Planning Commission, Government of India, April 2008*

³⁵⁸ See “Chhattisgarh SPOs likely to return as 'auxiliary force'”, Supriya Sharma, 26th July 2011, *Times Of India*. Available at <http://timesofindia.indiatimes.com/india/Chhattisgarh-SPOs-likely-to-return-as-auxiliary-force/articleshow/9374718.cms>. Last accessed on 10.5.2014 at 332 pm.

³⁵⁹ See *Nandini Sundar and Ors. v. State of Chhattisgarh*, (2011) 7 SCC 547.

order was issued pursuant to concerns expressed by the Central Government that if the July 5th 2011 order was fully implemented, the government would have severe difficulties in undertaking anti-insurgency operations in the Northeast, Jammu and Kashmir, Andhra Pradesh, Orissa, Bihar and other parts of the country.³⁶⁰ This modification is likely to have consequences for other parts of the country which would include the tribal dominated areas in the country that are victims of Maoist and state excesses.

Secondly, two months after the July 5th 2011 judgment, the Chhattisgarh Assembly passed the Chhattisgarh Auxiliary Armed Police Force Act, 2011 (the Act) authorising an “auxiliary armed force to assist security forces in prevention and control and combating maoist/naxal violence.” The object of the Act is to “establish a trained armed force of persons having knowledge of local area and topography and local language/dialect” since inaccessible tribal areas in Chhattisgarh are affected by Naxal violence. S. 11 of the Act regularises existing SPOs and inducts them into the auxiliary armed force.³⁶¹ S.14 grants them impunity in respect of any act committed by them under the Act.³⁶² This is despite the Supreme Court ordering that, “The State of Chhattisgarh immediately cease and desist from using SPOs in any manner or form in any activities, directly or indirectly, aimed at controlling, countering, mitigating or otherwise eliminating Maoist/Naxalite activities in the State of Chhattisgarh”.

Though the court has expressed shock, dismay and anger over the Chhattisgarh Government’s abuse of power, the Act explicitly defies the court order, continuing its earlier violent policies to combat extremism, the very same that the court declared constitutionally impermissible and abhorrent. Unless there is a conscious commitment by the state to move away from this skewed notion of protecting its citizenry, the vicious circle of violence and counter violence will continue.³⁶³

9.11 Criminal Law

An extremely disturbing feature that we witnessed in Scheduled Areas, where projects are being located, is the filing of cases against local people and their supporters. Land acquisition, displacement and the commencement of project work without settling

³⁶⁰ See “SPOs ban will apply only to Chhattisgarh: court”, J Venkatesan, *The Hindu*, 18th November 2011. Available at <http://www.thehindu.com/news/national/spos-ban-will-apply-only-to-chhattisgarh-court/article2639134.ece>. Last accessed on 10.5.2014 at 500 pm.

³⁶¹ S.11 of the Act under the heading “Provisions in respect of existing Special Police Officers” states “Notwithstanding anything contained in any order of any court, every Special Police Officer who is found eligible by a screening committee for appointment to the Auxiliary Armed Police Force under this Ordinance, shall be deemed to be a member of the Auxiliary Armed Police Force.”

³⁶² S.14 of the Act under the heading “Protection for acts of members of the Auxiliary Armed Police Force” states “No suit, prosecution or other legal proceeding shall lie against any member of the force for any act which is in good faith done or purported to be done or omitted to be done during the course of performance of his duty under the Ordinance.”

³⁶³ *Development Challenges in Extremist Affected Areas — Report of an Expert Group to Planning Commission, Government of India, April 2008*

issues that arise in the context of the project have given rise to various forms of protest and resistance. Local people complained that when they raised their voices against a project proposal that was brought to them, they invariably found themselves charged with criminal cases. Many of them spoke of attending Court in relation to cases filed against them. They were not always aware of what they were charged with, but they appeared to have an understanding of what they had done which had provoked the administration to bring the law down on them. For instance, in a village that the committee visited in Orissa, a woman and her husband were having to attend Court because they had led a resistance against the diversion of land for building a jail and a courthouse in their village. In project areas, persons opposing land acquisition or the location of projects in that area find themselves charged with multiple offences.³⁶⁴

It appears to have become commonplace to file cases against those participating in these protests. The large numbers of FIRs include charges under Section 147, 148, 149, 120B, 307, 506 of the Indian Penal Code and Sections 25 and 26 of the Arms Act and under Goonda Act in states, as well as the Chhattisgarh Special Public Security Act. Often, arrests occur and, it is not unusual to see further charges being added on in relation to persons already charged. Persons charged with these offences are brought within the entrails of the criminal justice system.

In Chhattisgarh, for instance, the committee found that a large number of tribals have been languishing in jails for long years without their trial concluding. When the under-trial women in Jagdalpur jail were asked to explain with what offences they had been charged, the answer almost invariably was 'naxal offence'. There is of course, no such offence defined in law. Here too, after the first FIR lodged against them, there would be further FIRs filed over a period of time implicating them in various episodes of violence. Persons charged with naxal offences find it extremely difficult to get bail, and so end up spending long years in jail. Trials do not conclude in many cases because official witnesses were absent. This may happen because a member of paramilitary force cited as a prosecution witness had been repatriated with his unit and was no longer in the state. The committee also met with criminal lawyers in Dantewada courts. They assessed that over 95 percent of the cases were baseless and it was no surprise that the acquittal rate in cases where trials ended, resulted in acquittal. In reply to an RTI application, the court registers for all cases disposed of between 2005 and 2012 revealed that average rate of acquittal over these years was 95.7 percent.³⁶⁵

The problem posed by this application of criminal law has, in fact, been recognized by the State Government which, in May 2012 set up a committee chaired by Ms. Nirmala Buch to review the delay in prosecution of under trials in Chhattisgarh jails.³⁶⁶ It has

³⁶⁴ *Alternative Law Forum Delhi Forum, Captive Democracy: A Fact Finding Report On Abuse of the Criminal System to Curb dissent against the POSCO Steel Plant in Odisha, February 2013; Anhit newsletters.*

³⁶⁵ *Based on information provided by members of Jagdalpur Legal Aid Group, Chhattisgarh.*

³⁶⁶ *Staff Reporter, 8th meeting of Standing Panel chaired by Ms. Nirmala Buch to review pending cases, Hitavad, May 7 2014.*

applied itself to the question of expediting bail applications. The committee has recommended grant of bail, in most cases on the ground of poverty of the person and in some others on the ground of ill-health.³⁶⁷

The situation in various places of conflict between local communities and the state and project authorities is grim. It is important to urgently establish a judicial commission that will go into the cases pending against tribals and their supporters where either they are charged with the expression of their concerns about projects and project implementation, or where the tag of naxal offences is sending people into prisons and courts. It is a significant fact that tribals are getting caught in the conflict between the state and the naxals. While the state may consider deploying various devices to deal with the issue of naxalism, it should not lead to a situation of oppression of the tribals.

The committee was informed that there are, indeed, occasions when villagers are called upon by the naxalites to attend meetings, and that they are often not in a position to exercise a choice on whether or not to go. Merely attending these meetings, they said, is being treated as support for naxalism. Where is the state to protect us if we were in fact to refuse, they asked. The notion that tribals are either with the state or with the naxalites has to be abandoned for a wider and more real assessment of the situation.

Naxal attacks that have left large numbers dead has placed an enormous burden on the state to address both the causes of the violence and the violence itself, without adversely impacting local communities. The attacks which took place on 25th May, 2013 in which 18 Congress leaders and workers died in Bastar when they were returning from Sukma after an election rally, and on 6th April, 2010, killing seventy four members of the CRPF and two policemen from Chhattisgarh, has understandably shaken the establishment.³⁶⁸

The occurrence of encounter killings where state forces have shot and killed villagers has also raised the pitch of the conflict and left a gulf between the state and local communities.³⁶⁹ The Edasmeta killings in Bijapur district where eight villagers including three children were shot dead on 17th May, 2013 was explained by the CRPF as having being caused by the return of fire in an encounter with naxals.³⁷⁰ The villagers, however, have been vehemently denying that such an encounter took place. In Sarkeguda, seventeen people were shot dead by the CRPF on the night of 29th June, 2012. This was, again, attempted to be explained as based on intelligence received on the presence of naxal leaders and a major naxal movement in the area. Seventeen

³⁶⁷ *High Powered Standing Committee (Chaired by Ms. Nirmala Buch) Report, 2014.*

³⁶⁸ Suvojit Bagchi, Mahendra Karma killed, V.C. Shukla injured in Maoist attack, *The Hindu*, May 26 2013 available at <http://www.thehindu.com/news/national/other-states/mahendra-karma-killed-vc-shukla-injured-in-maoist-attack/article4750467.ece>

³⁶⁹ *A Fact Finding Report on Unlawful Police Activities in Two Panchayats of North Bastar, Chhattisgarh, People's Union for Civil Liberties (PUCL), May 2013.*

³⁷⁰ *Press Trust of India, Chhattisgarh: Cong seeks CBI probe into 'fake' encounter in Bijapur, May 22nd 2013 available at <http://ibnlive.in.com/news/chhattisgarh-cong-seeks-cbi-probe-into-fake-encounter-in-bijapur/393199-37-64.html>*

villagers, including seven minors, were declared dead. A judicial commission is looking into this encounter.³⁷¹

In Orissa there are cases questioning the killing of persons in what were termed encounters.³⁷² Encounter killings do not have the sanction of the law beyond the exercise of the right of self-defense. 'Encounters' as a way of dealing with the naxal issue needs to be done away with, and lawful ways found to deal with it. Where encounters do occur, an FIR must be registered and the incident investigated to make sure that it was a legitimate use of force. This is the minimum that needs to be done in these circumstances.

Leadership emerging from tribal communities and public defenders working for the tribal interest also have cases registered against them: illustratively, Dayamani Barla, Lado Sikakaand, Ramesh Aggarwal. Dayamani Barla has been at the forefront of land struggle in Jharkhand.³⁷³ Since 2006, when she spearheaded a protest against Arcelor Mittal's proposed steel plant on 11,000 acres of land in Gumla and Khunti where the Chotanagpur Tenancy Act prohibits the sale of tribal land to non-tribals, she has been charged in connection with other protests in the region: for having led a march demanding that villagers be given MGNREGS job cards or given unemployment allowance in villages in Angada block in Ranchi district, for "leading a group of over 100-150 farmers, who entered the plot where NUSRL and IIM had already constructed boundary walls and cultivated the land" in a place 25 kms from Ranchi where land had been taken over for a Law University and an Indian Institute of Management.³⁷⁴ Lado Sikakawas picked up by the police on 9th August, 2010 and released three days later following an outcry. The police said they had picked him up because they thought he may be a Maoist and let him off when they found he was not. Lado Sikaka is a Dongria Khond tribal who has been leading the resistance against Vedanta's plans to mine in Niyamgiri.³⁷⁵

Dayamani Barla has been awarded Cultural Survival's Ellen L. Lutz Indigenous Rights Award.³⁷⁶ Ramesh Aggarwal, who was shot at by gunmen, disabling him, soon after he had led from the front in the closing down of a coal mine in Raigarh³⁷⁷ was recently awarded the Goldman Environmental Prize (commonly known as the

³⁷¹Anil Mishra, *Another Volley of Bullets for Bastar's Tribals*, *Tehelka*, 1 June 2013 available at <http://www.tehelka.com/another-volley-of-bullets-for-bastars-tribals/>.

³⁷²*Hube Majhi & Anr. v. State of Orissa & Ors*, Writ Petition No. 21821 of 2013; *Maria Kadaisma v. State of Orissa & ors*, Orissa HC Writ Petition no. 13508.

³⁷³Moushumi Basu, *The Voice of Jharkhand*, *Economic & Political Weekly*, Vol - XLVIII No. 23, June 08, 2013.

³⁷⁴Anumeha Yadav, *Activist Dayamani Barla gets bail*, December 21 2012, available at <http://www.thehindu.com/news/national/other-states/activist-dayamani-barla-gets-bail/article4226094.ece>.

³⁷⁵Debabrata Mohanty, *In U-turn, cops say 'Maoist sympathiser' on Rahul Niyamgiri stage ordinary tribal*, *Indian Express*, August 28 2010 available at <http://archive.indianexpress.com/news/in-uturn-cops-say--maoist-sympathiser--on-rahul-niyamgiri-stage-ordinary-tribal/673564/0>

³⁷⁶Uttara Chowdhary, *Tribal rights activist Dayamani Barla wins Ellen L Lutz award*, *First Post*, May 14 2013, available at http://www.firstpost.com/world/tribal-rights-activist-dayamani-barla-wins-ellen-l-lutz-award-779193.html?utm_source=ref_article.

³⁷⁷ *The chargesheet includes the names of a Jindal employee, a retired army brigadier, KK Chopra and his associate SN Panigrahi, who run a security agency, Superior Fire and Security Service, which provides security for Jindal Steel and Power Limited in Raigarh. The company has denied all connection with the incident.*

'Green Nobel').³⁷⁸ This seems to indicate the existence of two divergent world views in the understanding of offence and protection.

While the committee was visiting Jagdalpur, we were informed that Prof. Nandini Sundar was accused of links with the Maoists. Prof Nandini Sundar was a lead petitioner in the case in the Supreme Court that challenged the Salwa Judum policy, and is held in high esteem in the region for having brought Salwa Judum to a close. Social activists like Himanshu Kumar (who used to run the Vanvasi Chetna Ashram NGO in Dantewada, before it was demolished by police), Swami Agnivesh and writer Arundhati Roy have also been “branded” as having links with Maoists. The Supreme Court has, in *Nandini Sundar v. State of Chhattisgarh*,³⁷⁹ commented on this practice of the State:

“We must state that we were aghast at the blindness to constitutional limitations of the State of Chhattisgarh, and some of its advocates, in claiming that anyone who questions the conditions of inhumanity that are rampant in many parts of that state ought to necessarily be treated as Maoists, or their sympathizers, and yet in the same breath also claim that it needs the constitutional sanction under our Constitution, to perpetrate its policies of ruthless violence against the people of Chhattisgarh to establish a Constitutional order.”

9.11.1 Soni Sori Case

Soni Sori was picked up from a marketplace in Dantewada district, Chhattisgarh on 4th October, 2011. She, along with Lingaram Kodopi, was accused of acting as a conduit between the naxalites and Essar for payment of money from Essar. D.V.C.S Verma, the Essar general manager and B.K. Lala, the company’s chief contractor, were also arrested in connection with this charge in September, 2011. Two others, accused of being naxal commanders, have been absconding. The Dantewada district court granted bail to D.V.C.S. Verma in January, 2012, and to B.K. Lala in February, 2012. More than two years later, in an appeal against an order of the Chhattisgarh High Court, on 7th February, 2014, the Supreme Court directed that Soni Sori and Lingaram Kodopi be released on bail.

Soni Sori complained of severe torture and of being sexually assaulted when she was held in police custody. On 19th October, 2011, the Supreme Court directed that Soni Sori be examined by doctors in a Kolkata hospital in connection with the injuries she sustained in police custody. The medical report from the hospital found two stones in her private parts and rectum, confirming her complaint of rape.³⁸⁰

³⁷⁸ Associated Press, Indian activist Ramesh Agrawal wins 'Green Nobel', April 28th 2014, available at <http://timesofindia.indiatimes.com/home/environment/pollution/Indian-activist-Ramesh-Agrawal-wins-Green-Nobel/articleshow/34333193.cms>.

³⁷⁹ *Nandini Sundar and Ors. v. State of Chhattisgarh*, (2011) 7 SCC 547.

³⁸⁰ NRS Medical College and Hospital Kolkata, Medical Report dated 11 November 2011 [On file with Committee]; see also Legal Correspondent, Court anguished at SoniSori's medical report, *The Hindu*, December 3rd 2011.

In a series of letters addressed to the Supreme Court, Soni Sori had charged Ankit Garg, Superintendent of Police of Dantewada police station, of verbally abusing her and directing police personnel to strip her naked and administer electric shocks.³⁸¹ Ankit Garg was given the Presidents Gallantry Award soon after.

There are serious questions about each of these issues: Soni Sori's father was shot in his leg by the naxalites: why would anyone say that Soni would support the naxalites, he asked, when the committee met him. Why was no FIR filed and investigation done either, when Soni Sori complained of torture, or when the Kolkata hospital found evidence of the torture, including sexual torture? Why was Ankit Garg given the Gallantry Award, when there were serious charges that had been made against him which had not yet been investigated. The DGP (Home Guards) reportedly said, in explanation: "The Police Medal for Gallantry is for a specific instance... it is not like the award for Meritorious Service ... Ankit Garg led one of the teams in the Mahasamund [encounter]."³⁸²

9.11.2 Narayanpatna

Narayanpatna block, Koraput district in Odisha has been the site of a powerful movement on issues of bonded labour, a dominant liquor mafia and land grabbing by non-tribals. Nachika Linga, the leader of the tribal collective Chauasi Mulia Adivasi Sangh (CMAS) was liberated from bonded labour after five generations of his family had suffered under its yoke. The CMAS was also at the forefront of resistance to mining operations for bauxite in the Mali Parbat and Deomali areas.³⁸³

Despite the non-violent nature of their activities, government and police forces have branded them as Maoists and launched brutal operations against them with this justification.

In the last few years, Narayanpatna has become a heavily militarized zone, with three BSF camps in the block³⁸⁴ and several allegations against central security forces for brutal attacks and repression of dissent. On 20th November, 2009, when hundreds of CMAS activists protested the acts of the security forces outside the Narayanpatna police station, police opened fire killed two leading figures of the movement, and arrested and jailed several others.³⁸⁵ We were told that many had died in prison due to lack of proper medical facilities. Widows of this incident had approached the Odisha High Court for justice where the court directed payment of compensation.³⁸⁶

³⁸¹ Aman Sethi, *Activists shocked at gallantry award for Chhattisgarh cop*, February 12 2012, available at <http://www.thehindu.com/news/national/activists-shocked-at-gallantry-award-for-chhattisgarh-cop/article2834675.ece>. (Last visited 17.5.2014, 4.30pm).

³⁸² *Ibid.*

³⁸³ See Javed Iqbal, *Narayanpatna's nightmares*, 6th February, 2011, available at <http://www.newindianexpress.com/magazine/article393614.ece?service=print>; see also Special Correspondent, *State urged to restore peace in Narayanpatna*, *The Hindu*, December 12 2013.

³⁸⁴ *Ibid.*

³⁸⁵ *Ibid.*

³⁸⁶ *Kamala Tadingi v. State of Orissa*, 2011 (II) ILR- CUT- 570

According to a press statement in 2010, the number of persons taken into judicial custody from Narayanapatna block in Koraput district touched 104, including tribal children. There are around 15 children below the age of 14 confined in Koraput District Jail. The children do not know the language (Odia) which the jail authorities speak and are unaware about why they are in jail.³⁸⁷

In a press statement, several Panchayat functionaries of the block alleged that the State government was not allowing them to function and was unleashing a “reign of terror” in the area.³⁸⁸

Narayanpatna seems caught in the crossfire between state agencies and Maoist groups. On the one hand, many in the CMAS movements have been labeled as Maoists and persecuted on that basis. Simultaneously, there have been several attacks by Maoists on leaders of movements in the area as well as those accused of being “informants” to the State. In 2010, there was an IED blast that killed four civilian lives and another on 11th January 2011 that injured three government officials.³⁸⁹ Militarization has also made it difficult for outsiders, including journalists and others, to go to the area. This has led to the isolation of Narayanpatna and left its residents neglected and beleaguered after years of conflict.

9.11.3 De-notified Tribes (DNT)

The Criminal Tribes Act, 1862, stigmatized and illegalized whole communities. After the Constitution was promulgated in 1952, and the report of the Criminal Tribes Enquiry Committee submitted in 1952, the Criminal Tribes Act was repealed. This should have seen the end of the stigmatization and illegalization of the communities.³⁹⁰ Yet, and as we have been reminded through the years,³⁹¹ the tag of criminality attached to DNTs and to the nomadic way of life of nomadic tribes persists to the present day. The explanation lies, in good measure, in the Criminal Tribes Act being replaced in many states by the Habitual Offenders Act.³⁹² Over the

³⁸⁷ K. Sudhakar Patnaik, *Tribal children of Narayanapatna confined in Koraput Jail violating Juvenile Justice Act, Jan 5 2010* available at <http://sanhati.com/narayanpatna/#10>

³⁸⁸ *Press meet, Stop Repression in Narayanapatna: Respect democracy, Bhubaneswar, December 11 2013.*

³⁸⁹ Javed Iqbal, *Narayanpatna's nightmares, 6th February, 2011, available at* <http://www.newindianexpress.com/magazine/article393614.ece?service=print>

³⁹⁰ *Clarification: DNT are not one composite community and stay distributed between ST, SC and OBC.*

³⁹¹ *In February 2000, the National Human Rights Commission recommended the repeal of the Habitual Offenders Act, see Dr. Meena Radhakrishna, Dishonoured by History, The Hindu, July 16th 2000 available at* <http://www.hindu.com/fo0007/00070240.htm>. *The NHRC also noted that "Though the Criminal Tribes Act, 1871 was annulled soon after independence, the police, as well as members of the public, frequently and most regrettably continue to treat persons belonging to these communities as "born criminals" and "habitual criminals". They, therefore, remain amongst the most discriminated and disadvantaged groups in the country." - NHRC issues, available at* <http://nhrc.nic.in/hrissues.htm>; *In 2007, the Report of the United Nations General Assembly Committee on the Elimination of Racial Discrimination, Official Records of 62nd Session, Supplement No.18 (A/62/18), states that "The Committee is concerned that the so-called denotified and nomadic tribes, which were listed for their alleged 'criminal tendencies' under the former Criminal Tribes Act (1871), continue to be stigmatized under the Habitual Offenders Act... The Committee recommends that the State party repeal the Habitual Offenders Act and effectively rehabilitate the denotified and nomadic tribes concerned."*

³⁹² *The Punjab Act makes explicit the relationship between the Criminal Tribes Act and the Habitual Offenders Act when it states that "Notwithstanding the repeal of the Criminal Tribes Act, 1924, every person who stood registered under that Act at the commencement of this Act and who is a habitual offender, as defined in sub section (3) of section 2 of this Act, shall be deemed to*

years, the enactment of laws that treat the activities of DNTs as criminal, even if there is no attribute of a crime in such activities, has oppressed these communities. For instance, anti-beggary laws in many states impose criminality on acts such as performing, acrobatics and juggling on the streets. For example, the Bombay Prevention of Begging Act, 1959 has, in its definition of beggary, “singing, dancing, fortune-telling, performing or offering any article for sale.”

This is a formula that has been reproduced in legislation across states. The relationships between DNTs who make a living training animals, has per se, been rendered unlawful. The Wildlife Protection Act and the Prevention of Cruelty to Animals Act has been routinely applied over the years to communities that have had relationships with animals. While changing the law to make it illegal to keep animals with them and thereby criminalizing their traditional occupations, there has been little or no effort in helping the communities, make the transition to alternate means of livelihood.

It is difficult for these communities to find decent livelihood. Discrimination in educational institutions and the inflexibility of such institutions which do not account for the nomadic nature of some communities has left them outside the aspirations that others in society have. Communities also report that among them there are specific communities, which have many single women and where prostitution is common practice, not as a matter of choice but as a means of survival of the community.

For some years now, one of the major demands of the community has been the repeal of the Habitual Offenders Act. In February 2000, the National Human Rights Commission recommended that the Habitual Offenders Act be repealed.³⁹³ More recently, in March 2007, the United Nations Committee on the Elimination of Racial Discrimination stated:

*“The Committee is concerned that the so-called de-notified and nomadic tribes, which were listed for their alleged 'criminal tendencies' under the former Criminal Tribes Act (1871), continue to be stigmatized under the Habitual Offenders Act... The Committee recommends that the State party repeal the Habitual Offenders Act and effectively rehabilitate the de-notified and nomadic tribes concerned.”*³⁹⁴

One of the very disturbing features that was reported to us, was the routine manner with which these communities experience police brutality and violence. The label of criminality has done little to help them combat these police practices, whose illegality has not been recognized, despite its frequency.

be a registered person under this Act” and further that all orders passed under Section 10,11 and 16 the Criminal Tribes Act against such persons shall “be deemed to have been passed” under the provisions of Habitual Offenders Act.”

³⁹³ See Dr. Meena Radhakrishna, *Dishonoured by History*, *The Hindu*, July 16th, 2000 available at <http://www.hindu.com/foio/fo0007/00070240.htm>.

³⁹⁴ *Report of the United Nations General Assembly Committee on the Elimination of Racial Discrimination, Official Records of 62nd Session, Supplement No.18 (A/62/18)*

There are various sources that helped the committee understand the conditions in which these communities (Nomadic tribes, Semi-nomadic tribes and De-notified tribes) survive.³⁹⁵ There were also four regional consultations that the communities organized to assist the committee in formulating its report.³⁹⁶

The main recommendations that emerge are:

- Immediate repeal of the Habitual Offenders Act.
- The anti-beggary laws be revisited to remove the element of criminality that exists in these laws, especially the provisions in these laws that make “singing, dancing, fortune telling, performing or offering any article for sale.” activities punishable by law. These, in fact, represent a set of talents and skills that exist among these communities. These need to be recognized as such, and as suggested in the report of the consultations, the Ministry of Culture may work with the communities in the development of these skills and talents.
- One of the most tragic aspects that came up repeatedly in their consultations was the pervasiveness of police harassment and ill-treatment, including custodial violence and custodial rape. This is an extremely disturbing part of their report, which the government must urgently address. Such harassment and brutality must stop.
- The removal of discrimination and stigma is essential to help the communities gain access to schools, work and health services.
- The history of the law, their criminalization and stigmatization has had consequences for women. There are communities with large numbers of single women, where prostitution is widely practiced and had been a route to livelihood. The community expressed a keenness not to perpetuate this, including an end to stigma and discrimination.
- Apart from the Habitual Offenders Act and the Anti-Beggary Law, the Prevention of Cruelty to Animals Act, the Wildlife Protection Act and the Excise law be applied acknowledging the problems that the communities face in the application of these laws.
- The interests of nomadic tribes should be protected. They require special attention and their specific situation be recognized, including in relation to education, work, ‘citizenship entitlements’ and the needs of the elderly. Citizenship entitlements include identification documents, access to schools, food security and right to move around freely.

³⁹⁵ Milind Bokil, *De-notified and Nomadic Tribes*, *Economic & Political Weekly*, Vol - XXXVII No. 02, January 12, 2002; Dilip D'souza, *Branded By Law*, 2001.

³⁹⁶ *Recommendations from Regional Meetings on Nomadic and De-Notified and Semi-Nomadic Tribes in India*, organized by Budhan Theatre and TISS, given to Committee in January 2014.

9.12 Andaman and Nicobar Islands

In May 2002, the Supreme Court ordered a closure of the Andaman Trunk Road where it runs alongside or through the forests of the Jarawa reserve³⁹⁷. This order has not been implemented so far. The administration had instead, in December 2004 produced a 'Policy on Jarawa tribe of Andaman Islands' which spoke of 'regulation of traffic on Andaman Trunk Road' (ATR) and not of its closure. The consequences have been severe. It is now widely reported that the ATR spawned a variety of tourism that makes a spectacle of Jarawa tribals. In 2012, a *Guardian* report about tourists escorted by a policeman through the ATR captured on camera naked Jarawa women dancing for them, at the behest of the policeman. A video clip accompanied the news report. The report, which is corroborated by activists working in the Andamans, speaks of convoys of buses and cars, which travel the ATR seeking this 'safari' as a tourist attraction. In January, 2013, the Supreme Court ordered that all commercial and tourism activities within five km radius of the Jarawa Tribal Reserve be banned. A newspaper reports; "Except 30 villages notified in the schedule, the notification declares a buffer zone of an area up to a five-km radius, adjacent and contiguous to the Jarawa Tribal Reserve Area, starting from the Constance Bay in South Andaman to Lewis Inlet Bay in Middle Andaman. No person shall operate any commercial or tourist establishment directly or indirectly in the buffer zone. Furthermore, no one shall carry out any activity, which may be prejudicial to the safety, security and interests of the Jarawas in any of the settlement villages."³⁹⁸ The Supreme Court directed further that only government officials, persons residing in the reserve and vehicles carrying essential commodities for the Jarawas would be allowed on the ATR.

The Calcutta High Court has adopted a different approach which was contrary to the orders of the Supreme Court, and which now stands overruled. In the case in the Calcutta High Court, a former director of the Anthropological Survey of India argued; "ATR is like a public thoroughfare through a private courtyard... In the whole of human history, we find that the dominant group for their own advantage has always won over the minorities, not always paying attention to the issue of ethics. Closure of the ATR would perhaps be the first gesture of goodwill on part of the dominant towards an acutely marginalized group, almost on the verge of extinction"³⁹⁹.

The situation has progressively deteriorated. In January, 2014, there was apprehension of incidence of sexual exploitation of Jarawas. Eight Jarawa women were abducted on January 15, allegedly by local poachers who, as alleged, lure the Jarawa girls with

³⁹⁷ *T.N Godavarman Thirumulpad v. Union of India & Ors.*, Order dated 7 May 2002, I.A. No. 502 in WP (C) No. 202/1995.

³⁹⁸ J. Venkatesan, *Supreme Court bans tourists from taking trunk road passing through Jarawa area in Andamans*, *The Hindu*, January 22 2013, available at <http://www.thehindu.com/news/national/supreme-court-bans-tourists-from-taking-trunk-road-passing-through-jarawa-area-in-andamans/article4329360.ece>. (Last visited 17.5.2014, 4.30pm)

³⁹⁹ Pankaj Sekhsaria, *'Because Andaman's forests are Jarawa infested ...'*, *The Hindu*, January 19th 2012, available at <http://www.thehindu.com/opinion/op-ed/because-andamans-forests-are-jarawa-infested/article2811842.ece>. (Last visited 17.5.2014, 4.30pm)

food and drink and exploit them sexually'.⁴⁰⁰ This episode has drawn a member of the tribe to contact the outside world to protest about the sexual abuse of young women by outsiders.⁴⁰¹

There is now discussion about integration of Jarawas with the outside world. The committee is emphatic that such integration should not be forced on them and it must be only when the Jarawas are ready to make the ecological shift. Until then, a policy of integration should not be pursued.

In February 2010, the last member of the Bo tribe, a tribe that is believed to have inhabited the Islands for 65,000 years, died.⁴⁰² It is a somber reminder of the fragility of indigenous communities, a loss that has not yet been interpreted and understood.

Genetic studies have been expanding in the scientific community around the world. In August 2013, it was reported that a geneticist from the Centre for Cellular and Molecular Biology, Hyderabad had travelled to the Andaman Islands to collect blood samples from Andamanese tribals.⁴⁰³ He reportedly explained that this would 'help him understand the pivotal moment in India's genetic history'. The report proceeds to say "the tribesmen had never heard of a gene before or an academic study for that matter, and the whole pitch struck them as an interesting diversion from their usual routine of spearfishing." "They mostly laughed," the geneticist reportedly said, and continues: "before they offered up their arms in exchange for food. A few needle pricks later, they returned to their boats to fling short wooden spears into the water with uncanny aim, while (the geneticist) made the long journey home to Hyderabad. He deposited the latest samples into a blood bank, alongside another 32,000 samples from his countrymen."⁴⁰⁴

There is no mention of the protocols that they follow in collecting the blood sample, and efforts by the committee to secure these protocols failed. The question of consent, especially, is too serious to ignore. This report requires further weight, when considered in the context of the draft Human DNA Profiling Bill, 2012, which proposes to database the DNA of various classes and groups of people.⁴⁰⁵

⁴⁰⁰ Tapas Chakraborty, *Jarawa kidnap raises abuse fear*, *The Telegraph*, January 21st 2014, available at http://www.telegraphindia.com:8080/1140121/jsp/nation/story_17847180.jsp#.U2_KfOC9ywl. (Last visited 17.5.2014, 4.30pm)

⁴⁰¹ Gethin Chamberlain, *Jarawa tribe now face sexual abuse by outsiders on Andaman Islands*, *The Guardian Observer*, available at <http://www.theguardian.com/world/2014/feb/01/andaman-islands-jarawa-sex-abuse-outsiders>. (Last visited 17.5.2014, 4.30pm)

⁴⁰² Annie Shaw, *Last member of 65,000-year-old tribe dies, taking one of world's earliest languages to the grave*, 10 February 2010, available at <http://www.dailymail.co.uk/sciencetech/article-1248754/Last-member-65-000-year-old-tribe-dies-taking-worlds-earliest-languages-grave.html>. (Last visited 17.5.2014, 4.30pm)

⁴⁰³ Dan Kedmey, *What DNA Testing Reveals About India's Caste System*, *Time*, 27 August 2014, available at <http://world.time.com/2013/08/27/what-dna-testing-reveals-about-indias-caste-system>. (Last visited 17.5.2014, 4.30pm)

⁴⁰⁴ *Ibid.*

⁴⁰⁵ *This Bill can be viewed on the website of the Department of Biotechnology*, available at http://www.dbtindia.nic.in/biotechstrategy/DNA_Bill.pdf. (Last visited 17.5.2014, 4.30 pm)

9.13 Bonded Labour

The Bonded Labour System (Abolition) Act, 1976 was official acknowledgement of the existence of a form of forced labour which had both traditional and economic roots. Since then, there have been some efforts at ending this system of exploitative labour and relationships in bondage. The law provides for identification, release and rehabilitation of bonded labourers as well as punishment for employers of bonded labour. Close to 40 years after the enactment of a law that recognizes and outlaws bonded labour, the practice has not disappeared. The Ministry of Labour and Employment in their Annual Report of 2007-2008 record 2,86,839 identified bonded labourers, of whom 93 percent are reported to have been rehabilitated. The maximum numbers of bonded labourers were reportedly rehabilitated in the early 1980s. This was the period when the Supreme Court in its public interest jurisdiction was also actively engaged in lending weight to the Bonded Labour Act and monitoring the progress of identification, release and rehabilitation.⁴⁰⁶ It is not immediately evident how many bonded labourers continue in various states of servitude that remain unidentified.

The study done for the Planning Commission reports that 83 percent of the rehabilitated bonded labourers belong to Scheduled Tribes and Scheduled Castes. 43.6 percent of the rehabilitated bonded labourers belong to Scheduled Tribes.⁴⁰⁷

Indebtedness has been cited as the main reason for landing in bondage, and 70.7 percent of those surveyed gave loan as the main reason for bondage and 92.3 percent of those who did take the loan, did so for “consumption/food”.

There are several emerging studies that indicate that this practice of bondage continues to exist, particularly in tribal dominated districts. An activist in the field reported to us that the Yanadis in Nellore districts in Andhra Pradesh, Irulas in Tiruvallur, Cuddalore and Vellore in Tamil Nadu, the Sahariyas in Baran districts of Rajasthan, Shivpuri in Madhya Pradesh and Lalitpur and Banda in Uttar Pradesh are among the tribal communities among whom extreme conditions of inhuman bondage can be found. Landlords in these areas are often politically powerful and have no trouble evading criminal processes initiated against them in this context.⁴⁰⁸

⁴⁰⁶ See *Bandhua Mukti Morcha v. Union of India and Ors*, 1984 SCR (2) 67

⁴⁰⁷ A Report on Bonded Labour Rehabilitation Scheme under Centrally Sponsored Bonded Labour System (Abolition) Act, 1976 in the state of Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh, by Socio Economic and Educational Development Society (SEEDS), sponsored by the Planning Commission of India & Report of the Expert Group on Bonded Labour set up by the National Human Rights Commission in 2001.

⁴⁰⁸ For e.g., A Report on Bonded Labour Rehabilitation Scheme under Centrally Sponsored Bonded Labour System (Abolition) Act, 1976 in the state of Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh, by Socio Economic and Educational Development Society (SEEDS), sponsored by the Planning Commission of India & Report of the Expert Group on Bonded Labour set up by the National Human Rights Commission in 2001.

In 2013, the Government of India acknowledged the continuing prevalence of bonded labour in the country and identified ten districts, including Gaya in Bihar, Bastar and Kondagaon in Chhattisgarh, Prakasam and Chittoor in Andhra Pradesh, Kanchipuram and Vellore in Tamil Nadu, Bolangir in Odisha and Gumla in Jharkhand.⁴⁰⁹ What this campaign has thrown up are repeated traces of modern day forms of bondage.

There is a close relationship between trafficking and bonded labour that recent reports reveal. In February 2014, a newsmagazine published its report after travelling to hamlets in Narayanpur and Kanker districts of Chhattisgarh. The report speaks of tribal women being lured by promises, sometimes of work and sometimes of other journeys.⁴¹⁰ Official records, it says, show that 9000 girls have gone missing from Chhattisgarh in the past ten years. These are complaints that have been registered with the police, most of which are from Raipur. The report says that the government claims that the police have traced the whereabouts of 8000 girls, while a 1000 remain missing. Activists warn that the figure of missing girls could be closer to 90,000.

Placement agencies and local agents active in the region send them to become exploited labour in factories in Andhra Pradesh, Tamil Nadu, Delhi, Mumbai and other parts of Maharashtra. While there are some reports of the agents being arrested for human trafficking, there are no indications of any action being initiated in the factories and workplaces, who are using the labour of the girls.

There are capacities created by the law for state governments to protect the workforce that travels from their state to another state from exploitation. The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 has been on the statute books since 1979. This law enables the government of a state from where workers migrate to reach into state where they are taken for work. In 1990 the Supreme Court made it easier for the officers of the state from where workers migrate to protect the workers from exploitation: "This is a beneficial legislation for satisfying the provisions of the Constitution and the obligation in international agreements to which India is a party. We do not think there can be any valid justification for not permitting the officers of the Originating State to hold appropriate enquiries in the Recipient State in regard to persons of the Originating State working as migrant labour in the Recipient State. ... We make a direction that to implement the provisions of the Act of 1979 ... every State and Union Territory in India would be obliged to permit officers of originating States of migrant labour for holding appropriate

⁴⁰⁹ See "Govt to rehabilitate bonded labourers: Ramesh", *Press Trust of India*, 18th October 2013. Available at http://www.business-standard.com/article/politics/govt-to-rehabilitate-bonded-labourers-ramesh-113101800475_1.html. Last accessed on 16.5.2014 at 5:00 pm.

⁴¹⁰ See "Slaves to the Grind", *Priyanka Kaushal, Tehelka*, Issue 6 Volume 11, 8th February 2014. Available at <http://www.tehelka.com/slaves-to-the-grind/?singlepage=1>. A report about Uttarakhand entitled "Uttarakhand tribal community bound to bonded labour", *Archi Rastogi, Down to Earth*, 31st March 2007 is available at <http://www.downtoearth.org.in/node/5758>. Last accessed on 5.4.2014 at 11:00 am.

inquiries within the limits of the Recipient States for enforcement of the statute and no Recipient State shall place any embargo or hindrance in such process.”⁴¹¹

The study submitted to the Planning Commission reports that 95.2 percent of those surveyed said that it was the help provided by the state government that had helped them come out of bondage. It is without doubt that the intervention of state government is imperative in preventing human trafficking, practices of bonded labour and protection against exploitation of persons and communities migrating outside the state.

It would be trite to say that it is persons in various states of poverty who become susceptible to these forms of exploitation. The bonded labour law, and an acknowledgement of the prevalence of bonded labour has been around for close to 40 years. That this practice has not abated, that modern forms of slave-like practices have emerged, and that there is a preponderance of Scheduled Tribes, along with Scheduled castes in the population that makes up bonded labour is inexcusable. Dealing with this issue, while not adversely affecting the right of the free movement of all persons, is a matter that needs to be urgently attended to.

9.14 Recommendations

1. The past twenty years have been dramatic in the changes in the economy, and in the effect that economic policy has had on tribal communities. This has also been the period when laws, notably the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, have been enacted which recognize autonomy and rights of tribal communities.
2. The implementation of these laws is, however, sputtering and reluctant. The FRA framework includes provisions for: (i) recognition and vesting of rights (towards a secure tenure and livelihood/food security of the Scheduled Tribes and Other traditional forest dwellers), (ii) protection of the rights till the recognition and vesting process is completed, and (iii) control over forests of the local community and the Gram Sabhas. This framework, however, is missing from the process adopted for implementation of the law and the implementation structure does not have the necessary mechanisms and the vision to realize the objectives of the law. What is needed foremost is to strengthen the institutional system to support the process of implementation, including strengthening of the Gram Sabhas and FRCs, streamlining

⁴¹¹ *Dr Damodar Panda v. State of Orissa, (1990) 3 SCR 390.*

functioning of the sub-divisional and district level committees, strengthening the functioning of the state level monitoring committees and a dedicated structure within the nodal ministry (Ministry Of Tribal Affairs).

3. The implementation of the community forest rights has hardly taken off. It needs to have a clear mechanism and plan for recognition of various community forest rights and rights of vulnerable communities such as PVTGs and pastoralist communities.
4. The implementation of the protective provisions in the law and the process of recognition and assertion of forest rights is so far largely affected (obstructed) by contradictory processes like: diversion of forest land which, among other things, is displacing Scheduled Tribes/OTFDs and alienating their rights, displacement from the protected areas and Tiger Reserves, and displacement due to intervention by the Forest Department through forceful plantation in the forest lands. While the protective clause under FRA is meant to prevent such cases of violation of forest rights, the implementation process has almost entirely ignored the protective parts of the law.
5. The democratic structure in forests with the Gram Sabhas as laid out in the FRA faces great resistance from the current forest regime and the various forestry institutions and programs implemented by the Forest Department and the MoEF. In the Joint Forest Management program, for instance, the operation of working plans are found to be obstructing the process of assertion of rights by the Gram Sabhas. It is necessary to remodel the entire structure of forest administration, the Forest Department, the MoEF and its programs to complement and enable the control and management of forests by Gram Sabhas and local communities.
6. The changed paradigm has not yet permeated administration, and projects and plans continue to approach forests as the exclusive domain of the state. This is resulting in multiple ways and situations in which the laws are subverted, and the rights of tribal communities denied. The exception to linear projects and the decisions of the Cabinet Committee on Investment illustrate the point. Such deliberate flouting of the law currently has no penalties attaching to it. Such penalties that will deter the breaching of the FRA need to be introduced.
7. The FRA mandates the representation of women in Gram Sabha and in the other tiers prescribed by the law. Effective participation has, however, been

elusive. Given the close relationship between forests, forest produce and women's lives, there is work to be done to turn this around.

8. The difference between states of poverty and of vulnerability has been explored in the context of PVTGs. Access to resources in forests makes a difference in the extent of their vulnerability. Where there has been a depletion of forest cover, and the emphasis is on timber trees, the effect is to add to the vulnerability of PVTGs. Where, on the other hand, the resources are safeguarded and the community has access, the ability to prevent nutritional distress can be augmented.
9. Displacement for creating Tiger Reserves and Elephant Corridors take away from the provisions that recognize that tribals need to be asked to be displaced only if co-existence is impossible and with Gram Sabha consent. The resettlement experience of those displaced speaks to continued marginalization of affected communities. This is a common tale, and that is the way it has largely been through the years. Even where the decision to displace is taken reasonably and according to the process prescribed, the inability displayed in effecting rehabilitation has to be acknowledged. There is an urgent need to review the ability of administrators who are responsible for rehabilitation, and for revising the rehabilitation process. Failed rehabilitation has consequences that have been ignored for far too long.
10. The import of PESA has not been internalized into administrative practice, and government officials including Forest Departments continue to deny access to tribals to that which is their right. Bureaucracies and judicial institutions need to be introduced to the changes that PESA has brought into administration and control in Fifth Schedule areas.
11. An exercise to bring rules made by state governments in conformity with PESA needs to be undertaken.
12. Government officials who were the agencies to prevent tribal loss of land are increasingly being seen to be negotiators on behalf of project authorities. This is a very disturbing trend, where the very authority who had been tasked with preventing land alienation from a tribal to non-tribals becomes an agent for effecting such alienation. This must be stopped.

13. There have been recorded cases of Gram Sabha consent being fraudulently obtained or forged; such conduct must face penalties, and projects that proceed on the basis of consent so obtained cannot be allowed to proceed. If such consequences do not flow, there will be no incentive to refrain from such actions.
14. Given the constitutional provision in Article 243-ZC, the creation of new Nagar Palikas or the extension of those already in existence in Fifth Schedule areas and tribal areas, as defined in the provision, must be preceded by a law made by Parliament, which sets out the exceptions and modifications from the chapter on Municipalities introduced by the 74th Amendment to the Constitution.
15. The amendments proposed to PESA has an important component of prior informed consent. This is a necessary condition for the effective implementation of PESA.
16. There has been a proliferation of MoUs between states and companies that imposes responsibility on the state to facilitate various aspects of project clearances including in matters of environmental and forest clearances. Increasingly, the state undertakes to maintain law and order for the smooth execution of the project. These MoUs make the state a party to an agreement and take away the neutrality of the state. The idea such MoUs needs to be reviewed. Institutions such as the Cabinet Committee on Investment that set priorities and pursue them even where it is in direct breach of the law amounts to deliberate flouting of the law and such practices of expediency need be halted.
17. Public policy and practice must draw on the iconic experience of Niyamgiri, and the adverse lessons from the Salwa Judum.
18. The encounter of the tribal with criminal law has been one of the disturbing aspects in the past decade. Large numbers of tribals, men and women, are in jails for what are termed 'naxal offences'. There is, of course, no legal basis for terming anything a 'naxal offence'. Others are charged in areas where there is resistance and protest against projects, provoking the assessment that the criminal law is being used as a tool of the state to suppress dissent. The acquittal rate is extraordinarily high, raising doubts about the use of criminal law. Yet, the years spent in jail, multiple charges that are imposed on the tribals and the charges on tribal leadership and on supporters have become the new normal. The committee is of the view that a Judicial Commission needs to be appointed to investigate cases filed against tribals and their supporters; only

this will allay the concerns that have risen about the misuse of criminal law by the state.

19. De-notified Tribes have been asking that steps be taken to remove stigma and prejudice from their lives. More specifically, the Habitual Offenders Act, which has served to continue to attach criminality to them, be repealed. Anti-beggary laws render the talents that they possess, such as juggling and acrobatics, into punishable conduct; there are earnest demands for the repeal of these provisions in the law. Women bear the brunt of this attribution of criminality, and whole communities of women find themselves in prostitution without a choice. Complaints about police brutality including custodial rape were rife, speaking of lawlessness among the law enforcers. Such lawlessness is unacceptable and action must be taken in accordance with law.
20. The Andaman Trunk Road which the Supreme Court ordered to be closed in 2002 still continues to be open to traffic. Although there are formal directions against plying commercial traffic on the road, these have been observed only in the breach. Tourist vehicles including buses and taxis ply on this road. In the past few years, the exploitation of Jarawas as a tourist attraction, and the sexual exploitation of the Jarawas has been recorded and reported on. The problem has however not abated. The Andaman Trunk Road will have to be closed if the Jarawas are to be protected from such unwelcome interest. DNA testing on Jarawas has been reported. Efforts to get the protocols used to ensure the consent of the indigenous population did not yield result. This becomes of especial significance in the context of the Human DNA Bill, 2012 which proposes the creation of DNA data bases. Informed consent is a necessary part of such exercises, also among the indigenous population.
21. The persistence of bonded labour, and the trafficking, in large measure, of women from tribal areas needs a concerted effort to end it. The state has to take primary responsibility to identify, release and rehabilitate bonded labour, wherever they are found.

10. Delivery of Public Goods and Services⁴¹²

10.1 Introduction

The Planning process in India has, since its inception, emphasized inclusion of marginalized communities, including the Scheduled Tribes. Initially, it focused on directing sufficient resources for the development of Scheduled Tribes, along with establishing institutions and mechanisms for delivery of goods and services. These processes were set in motion, under various schemes and programmes. The strategy changed from Plan to Plan and evolved over time. The first of these institutions created were the special Multipurpose Tribal Development Projects (MTDPs), established towards the end of the First Plan and continued during the Second Plan. However, these could not fully serve the interests of the tribal people, as there were several schemes that were broad in nature. A different strategy was adopted during the Third Plan, wherein all the Community Development Blocks with tribal population of 66 per cent and above were converted into Tribal Development Blocks (TDBs). By the end of the Fourth Plan, there were 504 TDBs in the country. This strategy too, had its limitations, as it was unable to address the interests of over 60 percent, tribal population living outside the TDBs.

During the Fifth Five Year Plan, the strategy of the Tribal Sub Plan (TSP) was adopted, and saw the creation of more robust institutions like ITDP and ITDA. Simultaneously, the exercise of identification of tribal majority blocks in the country, was undertaken in the Fifth Plan period (1974-79) and completed in the Sixth Plan period (1980-85). The basic objective of the Tribal Sub-Plan (TSP) is to allocate government resources equitably between the overall population and tribal population. Funds earmarked under the TSP had to be at least equal in proportion to the Scheduled Tribe population of each State or UT. Similarly, all Central Ministries had to provide funds, in proportion to the population of Scheduled Tribes at the all India level.

When first formulated, the important constituents of the Tribal Sub Plan were:

- identification of development blocks having, generally, a majority of ST population and approximately constituting them into ITDPs;
- preparation of a project report for each ITDP based on the natural resource endowment therein, available financial resources and the avocations, skills and aptitudes of the people of the ITDP

⁴¹² The views of the Secretary, Ministry of Tribal Affairs are presented in this chapter.

- ensuring availability of at least population-proportionate, pooled financial resources earmarked from the State Plan funds, funds of Central and Centrally sponsored programmes, special Central assistance, institutional finance and any other source, and
- placement of a suitable techno-administrative structure in the ITDP for execution of programmes, schemes, etc. (generally a full-fledged hierarchy for execution of projects and scheme with a Project Director or Project Administrative heading a few selected sector specialists was brought into being).

Integrated multi-sectoral project reports, with pooled funds garnered from various sources, were prepared during the Fifth and Sixth Plans for a large number of ITDPs and executed during the Seventh Plan. The first State TSPs were finalized in 1975-76. Separate sub-heads for TSPs were also introduced in State Budgets at approximately the same time.

Partly modifying the guidelines, in 2010, the Planning Commission laid down differentiated Ministry/Department-wise earmarking of Plan funds under TSP. It also improved follow up with States and Central Ministries. As a result, in recent years, i.e., 2010-11 onwards, the total outlays available for TSP, in nominal terms, have increased substantially. Central outlay for TSP has increased in recent years but continues to be less than the share of STs in total population (Tables 10.1 and 10.2)

Table 10.1: Central Government Annual Outlay for Tribal Sub-Plan

Year	Total Gross Budgetary Support (GBS) (BE) (Rs. Crores)	TSP (Rs. Crores)	TSP as % of GBS
2010-11	280599.99	8616.49	3.07
2011-12	335521.00	18462.30	5.5
2012-13	391027.00	21710.11	5.55

Table 10.2: Ministry-wise TSP Outlay

S.No.	Ministry/Department	Mandated TSP (%)^^	2012-13#		TSP Outlays (%GBS) 2013-14#	
			TSP	%	TSP	%
1	D/o Telecommunications	0.25	12.00	0.25	14.50	0.25
2	Ministry of Textiles	1.20	84.00	1.20	55.57	1.20
3	Ministry of Water Resources	1.30	19.50	1.30	19.50	1.30
4	D/o Food and Public Distribution	1.40	4.06	3.22	6.28	2.42
5	Ministry of Culture	2.00	17.28	2.00	28.70	2.00
6	Department of AYUSH	2.00	19.80	2.00	21.38	2.00
7	Ministry of HUPA	2.40	27.72	2.40	35.04	2.40
8	Ministry of Tourism	2.50	30.25	2.50	32.05	2.50
9	Department of Science & Technology	2.50	61.93	2.50	69.43	2.50
10	Ministry of Road Transport & Highways	3.50	500.00	2.17	800.00	3.40
11	D/o Agriculture Research & Education	3.60	116.00	3.60	123.00	0.36
12	Ministry of Mines	4.00	8.72	3.59	9.72	2.08
13	D/o Information Technology	6.70	201.00	6.70	201.00	6.70
14	D/o Higher Education	7.50	1159.35	7.50	1219.59	7.52
15	D/o Agriculture & Cooperation	8.00	882.59	8.03	932.50	8.00
16	Ministry of MSME	8.20	139.48	4.92	244.21	8.20
17	Ministry of Coal	8.20	31.00	6.89	31.60	7.02
18	Ministry of Youth Affairs and Sports##	8.20	85.60	8.22	90.28	8.26
19	Ministry of Labour and Employment	8.20	202.54	8.20	206.95	8.20
20	Ministry of Panchayati Raj	8.20	17.44	5.81	37.55	7.51
21	Ministry of Women & Child Development	8.20	1517.00	8.20	1668.70	8.20
22	D/o Health & Family Welfare	8.20	2224.41	8.20	2391.53	8.20
23	Department of Land Resources	10.00	320.05	10.00	576.45	10.00
24	D/o Drinking Water and Sanitation	10.00	1400.00	10.00	1526.00	10.00
25	D/o School Education & Literacy	10.70	4918.68	10.70	5313.52	10.70
26	D/o Rural Development	17.50	3460.37	4.73	4452.03	5.98
27	Ministry of Tribal Affairs**	100.00	4090.00	260.01	4279.00	242.85
28	Ministry of Environment and Forests*	0.00	16.00	0.66	16.00	0.66
29	Department of AIDS Control*	0.00	139.40	8.20	146.37	8.20
30	Ministry of Social Justice and Empowerment*	0.00			46.00	0.69

NOTE:

Statement 21-A Expenditure Budget Volume 1

At the time of Task force Report, these were shown as two separate departments. However, in statement-21-A of 2012-2013 and 2013-14, these are shown as a single department.

* Not mandated to compulsorily earmark for TSP.

** The TSP allocation is in excess of 100% of GBS because the GBS does not include allocations under SCA to TSP and Grants under and Article 275(1) of the Constitution, but these allocations are included in computing total TSP of the Ministry of Tribal Affairs.

^^ TSP proportion as recommended by Task force and accepted by Planning Commission.

The TSP strategy specially implemented for Scheduled Tribes has not yielded desired results. As per the Sub-Plan approach, the Central Government is required to ensure that out of its total Plan budget, at least 8.6 percent (as per 2011 Census) is earmarked for the development of Scheduled Tribes in the Union Budget. But, the decline in the budget allocations for TSP in proportion to the Scheduled Tribe population is a cause for serious concern. This anomaly has to be seriously addressed.

Such shortfall of funds for TSP in the budget allocations is also evident from the previous financial years. For instance, only about 5 percent of funds were allocated from Central plan to TSP during 1997-2000 against about 8 percent of population share of Scheduled Tribes during that period. Thus, the actual allocation of funds under the TSP was much lower than what was actually desired.⁴¹³ Such trends indicate that the Central Government itself is not following the Planning Commission guidelines in earmarking adequate funds for Scheduled Tribes. Added to this, there has been poor utilization of the allocated funds for the welfare of Scheduled Tribes.

The State governments have also not earmarked adequate funds for Scheduled Tribes. Inadequate allocation of funds is evident from seven States, out of 22 TSP States, as evident from the following table:

Table 10.3: Tribal Sub-Plan outlay for selected States

State	Percent of ST Population (2001 Census)	Total Plan (annual) outlay (Rs. in crores)	Outlay for TSP (Rs. in crores)	Percent of TSP allocation
Assam	12.4	14537.33	491.21	3.3
Chhattisgarh	31.8	23480.00	7356.00	31.3
Goa	12.06	4700.00	566.42	12.0
Gujarat	14.8	51000.00	6682.41	13.1
Karnataka	6.6	42030.01	2075.00	4.9
Maharashtra	8.9	61803.51	4005.00	6.4
Sikkim	20.6	1877.00	151.33	8.0

Source: Annual Report 2012-13, Ministry of Tribal Affairs, Government of India.

As per guidelines issued by the Planning Commission, the Tribal Sub Plan funds are to be non-divertible and non-lapsable. But, most of the funds meant for TSP have been diverted to other sectors and purposes, and some of them have also been lapsed due to their improper utilization or failure of administrative machinery. Such

⁴¹³Thorat, Sukhdeo and Chittaranjan Senapati. 2007. *Reservation in Employment, Education and Legislature: Status and Emerging issues. Working Paper Series, Vol. II, No.5.* New Delhi: Indian Institute of Dalit Studies. www.dalitstudies.org.in

inadequate allocation, underutilization, diversion, and lapse of funds are evident in the case of Andhra Pradesh.

Table 10.4: Tribal Sub Plan Allocation

Year	Total Plan (annual) outlay	TSP allocation	Percent of TSP allocation	TSP expenditure	Percent of TSP exp. to total plan exp.	Difference/ Diversion/ lapse of funds
2002-2003	8553.19	639.27	7.47	508.35	6.11	130.92
2003-2004	10970.46	761.48	6.94	705.17	6.55	56.31
2004-2005	13291.2	777.46	5.85	856.93	7.48	-79.47
2005-2006	15650.76	915.26	5.85	776.97	5.78	138.29
2006-2007	2000	1184.85	5.92	1411.05	7.89	-226.2
2007-2008	30500	2454.82	8.05	2357.59	8.77	97.23
2008-2009	44000	3331.96	7.57	1690.8	5.12	1641.16
2009-2010	33496.75	2370.86	7.00	1527.58	5.14	843.28
2010-2011	36727.96	2529.19	6.77	555.43	9.74	1973.76
2011-2012	42915.54	2292.29	5.34			

Source: Palla et.al, 2012

The State government of Andhra Pradesh which brought the legislation on Tribal Sub Plan (Andhra Pradesh Scheduled Castes Sub-Plan and Tribal Sub-Plan Act 2013) for making mandatory fund allocation in the budget and its utilization on the basis of population ratio of Scheduled Tribes has failed to implement it. The report of the Comptroller and Auditor General of India (CAG) submitted to the legislature revealed that the objective did not materialize even after the legislation. While the Government should earmark at least 6.6 percent of its Plan outlay in the budget exclusively for Scheduled Tribes, the actual allotment was only 4 percent of State budget for Scheduled Tribes in 2012-13, according to the CAG. CAG also revealed that funds for TSP were released below the stipulated percentage in the last five years.⁴¹⁴

Even if fund allocation is disproportionate to the Scheduled Tribe population and its non-utilization or low-utilization, whatever allocation is made for TSP, the benefit has not been proportionate. No compromise should be made with regard to TSP fund allocation and its proper expenditure for the benefit of the Scheduled Tribes. Perhaps a computation of non-utilized, under-utilized and diverted funds from the TSP allocation for a period of 10 years at the all-India level by MoTA would highlight the injustice done to the Scheduled Areas and Scheduled Tribes. Sub-Plan expenditure has not resulted in the benefits optimally because of the complexity of programs and their tardy implementation. Therefore, there is a need for simplicity of programs, increasing awareness about the programs, particularly in remote areas, and need-based programs in consultation with the communities.

⁴¹⁴ *The Hindu*, 2014. Andhra fails to make mandatory allocation for SC/ST sub-plans. Hyderabad, February 14, 2014.

However, this increase in funds has not generally translated into better socio-economic outcomes for tribal populations for a variety of reasons. Foremost is the fact that the majority of the tribal population is less vocal, has been traditionally disadvantaged and live in remote places. In addition to the problems of physical access, the absence of functionaries of line departments and language of communication are serious barriers. As a result, this money allocated for the tribal population, lapses and is, in effect, transferred to non-tribal people, in the subsequent financial year. Further, the per-capita cost of infrastructure for tribal areas is higher than the rest of the population, because tribal population is dispersed, often in remote hamlets and in hilly, inaccessible areas. The problem has been exacerbated by (a) continuous presence of extremist groups, which prevent the implementation of basic programs like health, education, livelihood, in certain instances and (b) large scale displacement on account of irrigation, mining and other projects, as well as declaration of their habitats as reserve forests and wild life sanctuaries. Another reason for increased outlays under Plan schemes not translating into better outcomes for Scheduled Tribe population is that the delivery system of public goods and services has remained weak.

The utilization of funds under the Centrally Sponsored Schemes (CSS) in the social sector, livelihood schemes and access to goods and services in the field, were to be facilitated by the State Governments through appropriate institutional arrangements. These included Integrated Tribal Development Projects (ITDP) or Integrated Tribal Development Authorities (ITDA) in areas, which are generally contiguous areas of the size of at least tehsil/block, in which the ST population is 50 percent or more; development was also focused on MADA pockets which have 50 percent or more ST population with a minimum population of 10000; and clusters which are identified pockets having at least 50 percent population with a minimum population of 5000. At the time of their initial identification and establishment, the ITDAs / ITDPs were sound institutions, but over time States did not pay enough attention for maintaining and strengthening their institutional capabilities, providing manpower and modern infrastructure. On the part of the Union Government, the focus on these institutions was lost, particularly since 1990s, as these were considered State government institutions, which was not the case. In contrast, the DRDAs continued to be stronger, partly because the budget for Rural Development went up manifold, while that for tribals under Article 275(1) stagnated or declined in real terms. As a result, ITDAs/ITDPs have not been able to grow to the desired level. Thus, even as several scheme-specific bodies at district level, including DRDAs, have become stronger over the years, ITDAs have become weak in most of the States. (One exception is Andhra Pradesh). As a consequence, the absorption of funds available under various CSS schemes and the efficiency in utilization of funds has been low.

Clearly, rapid socio-economic development of Scheduled Tribes and bridging of gaps vis-à-vis the general population, cannot be achieved unless robust institutions are in place at field level, for delivery of public goods and services that are created under the

various plan schemes; institutions that can ensure efficient and effective use of available resources and effective outreach to the tribal people. The ITDAs have to be strengthened and fresh thinking on creation and strengthening of institutions of delivery is required to address the numerous physical and geographical barriers faced by tribal areas. In smaller concentration of tribals who are particularly in need of support, micro projects have to be strengthened or set up where they do not exist. ITDAs must be established in all blocks, where ST population is higher than 50 percent. In most urban areas, there is very little manpower for addressing problems of tribals. There has been a significant increase in urban tribal population, during 2001-11, which is a pointer to their 'push' migration. Therefore, new agencies need to be created and functionaries from the Department of Tribal Welfare need to be deputed to urban areas.

10.2 Twelfth Five Year Plan and Beyond

The Twelfth Five Year Plan, with its focus on faster, sustainable and more inclusive growth, recognizes the importance of administrative strengthening and improved governance. In addition, it emphasizes the following areas for addressing socio-economic conditions of Scheduled Tribes:

- Education and health
- Livelihood support and employment, imparting of skills and creation of employment opportunities near ST habitations
- Improved infrastructure
- Issues of land acquisition
- Resettlement and rehabilitation of displaced tribal populations
- Connectivity in Left Wing Extremism and tribal areas
- Implementation of provisions of PESA and FRA.

In the foregoing chapters of this Report, we have underscored the vast differences between STs and other social groups on a range of socio-economic parameters (some of these are summarized in Table 10.5), implying thereby that the areas of focus identified by the Twelfth Five-Year Plan would continue to need attention in subsequent Plan periods. These would, no doubt, require greater infusion of financial resources, although enhanced financial resources are not a sufficient condition for achieving development of STs and PVTGs.

Table 10.5: Selected Socio- economic Indicators

Indicators	Sub-Indicators	Rural				Urban			
		ST	SC	OBC	Others	ST	SC	OBC	Others
Poverty*	Population Below Poverty Line (%) 2004-05*	47.3	36.8	26.7	16.1	33.3	39.9	31.4	16
Health**	(Haemoglobin less than 12g/dl)	All India							
Education***	GER (2009-10)	Women				Men			
		ST	SC	OBC	Others	ST	SC	OBC	Others
		68.5	58.3	54.4	51.3	39.6	26	22.3	20.9
Access to Drinking Water****	Source	All India							
		ST		SC		All Categories			
		Boys	Girls	Boys	Girls	Boys	Girls		
		119.7	115.2	111.9	111.1	102.5	100.4		
		55.3	45.8	71.2	63.9	66.7	58.7		
Electricity as main source of Lighting****	Away	ST		SC		General			
		61.7		69.0		71.3			
		ST		SC		General			
		61.7		69.0		71.3			

Sources: * Planning Commission
 ** NFHS 3, 2005-06
 *** Statistics of School Education, 2009-10, MoHRD, 2014
 **** Census of India, 2011

10.3 Strengthening of Institutions: ITDAs/ITDPs

As per the existing arrangements, the ITDAs/ITDPs are the administrative units adopted by a number of States for the purpose of delivery of programmes and services to tribal individuals, households and habitations. Till date, about 194 ITDPs/ITDAs have been set up in the states of Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal and Union Territories of Andaman and Nicobar Island and Daman & Diu. The ITDP/ITDAs are expected to undertake planning and implementation of various programmes and projects of the State Governments as well as of the Government of India in their respective areas. They are responsible for infrastructural development, income-generation activities, health and education related service delivery as well as implementation of Forest Rights Act within their areas. These institutions were established with the primary objective of ensuring an integrated implementation of development programmes for tribals in the sub-plan areas. In the years 1975-1990, they were capable of delivery of services to tribal areas, including remote, inaccessible tribal habitations, with due regard to language and cultural context. Some States, like Odisha, also developed the institution of micro-projects for development of PVTGs. The weakening of these delivery institutions in tribal areas over the last

two and a half decades has become an area of major concern. It has created a self-perpetuating cycle of poor performance, low financial allocations, which in turn, result in low expenditure under CSS and poor delivery of goods and services, leading to lower subsequent allocations. While there is no shortage of funds for livelihood sectors like agriculture, animal husbandry, horticulture, handicrafts, handloom and skill development under various Centrally Sponsored Schemes, for reasons mentioned earlier, the access of tribal population to such schemes continues to be poor. Depletion of forests and displacement has further exacerbated livelihood problems. Against this background, the role of ITDA/micro projects has become more important than it was decades ago.

The Forest Rights Act has also cast additional responsibility on the field staff of the Tribal Welfare Department. The main responsibility is to enable Gram Sabhas to take informed decisions. These agencies must be pro-active, when the rights of the forest dwellers are adversely affected. While MGNREGA supports land and watershed development for increased productivity of land settled under FRA, absence of supporting staff for implementing the scheme has resulted in low absorption of funds available for supervision of these works. This requires additional technical staff for ITDA / micro projects etc.

The actual structure of an ITDA/ITDP, in terms of core manpower and control of the Project Manager, ITDA on personnel of related line Departments varies considerably across states, thereby affecting service delivery. A substantial amount of TSP funds are still utilized for infrastructure creation. In the absence of a dedicated engineering wing with the ITDAs/ITDPs and/or the Tribal Welfare Department, the responsibility lies with PWD, for whom tribal development is not a priority. This leads to delay in execution of programmes.

Andhra Pradesh exemplifies a good model of ITDA, where each unit is equipped with engineering, health and education personnel accountable to the Project Manager. The presence of the core staff enables smooth functioning of the agency. In 1986, the Government of Andhra Pradesh issued an order establishing a single line administrative system in the ITDA areas with the primary objective of ensuring an integrated approach for implementation of development programmes for the tribal people in the sub-plan areas. In order to facilitate better coordination among all the functionaries operating in the sub-plan areas, the departments working in the sub-plan areas were brought under the administrative control of the Project Officer, ITDA. This has facilitated tribal people to use a single agency for redressing their grievances on development as well as regulatory matters. Subsequently, in early 2014, the State government strengthened this single line system by issuing comprehensive guidelines so as to enable the Project Officers of ITDAs to exercise their responsibilities towards tribal development.⁴¹⁵ An indicative staffing pattern of ITDA in Andhra Pradesh and

⁴¹⁵ These guidelines, inter alia, include, (i) that project officer (PO) of the ITDAs shall be, as far as possible, from the senior time scale of IAS; (ii) every PO will be supported by an additional PO, preferably in the rank of Special Duty Collector; (iii) powers

letter dated 30th April, 2014 issued by Ministry of Tribal Affairs along with Orders issued by the Government of Andhra Pradesh are presented in Annexure 5.

10.4 Strengthening of Institutions for PVTGs

Apart from areas covered under the ITDAs/ITDPs, smaller concentrations of tribals scattered both within and outside ITDA areas are particularly in need of institutional support, to translate the programmes into actual flow of benefits. There has also been considerable displacement of tribals from their traditional hamlets, initially because of declaration of their habitat as Reserved Forests and irrigation projects and later, because of mining projects and violence. In the Northeast, there has been displacement of tribal people, because of inter-ethnic conflict. Many of them lack housing and other amenities in the new locations. New micro agencies need to be created in such pockets to cater to displaced tribal groups. Micro-projects with an administrative unit with core financial resources, flexibility to address various issues, for a defined population in a given geographical area have been found to be successful. For instance, in Odisha, a micro-project model of providing services to PVTGs has been found to be effective. This model of micro projects is being effectively used in Odisha. Between 1976-77 and 1994-95, the Government of Odisha established micro-projects in 17 Blocks to cater to 11 PVTGs spread over 541 villages. Other States should create similar agencies for PVTGs.

10.5 Creation of Institutions in Urban areas

A large proportion of Scheduled Tribes are migrating to urban areas for reasons mentioned earlier. During the census decade, 2001-2011, the number of STs in urban areas increased from 66.19 lakhs to 104.62 lakhs, which is an increase of 5.8 percent per annum. Many of these people have become wage labourers in urban areas. These STs who migrate from rural areas to urban areas suffer loss of identity, community solidarity, land, entitlements such as ration cards, and common resources. Many people who live in urban areas have no records to prove they belong to Scheduled Tribes making it difficult to get certificates. It is imperative that States work towards the creation of micro projects in urban areas which have substantial ST population to assist them. For setting up the micro projects in urban areas, each State can consider

which are exercised by the Collectors/Joint Collectors/District Revenue Officers in specified districts as well as under particular laws relating to Forests, Health and cooperative societies, etc. shall be exercised by the PO of ITDAs in so far as tribal sub plan areas are concerned; (iv) officers in charge of DRDA and DWMA responsible for implementation of rural development programs in ITDA areas shall work under the administrative control of PO, ITDA; (v) Panchayati Raj Department shall delegate powers of CEO, Zilla Parishad over MPDOs, to PO, ITDA to the extent of ITDA mandal so that single line administration works effectively; (vi) the budgets of various development/welfare activities should be bifurcated at the departmental level between TSP and non-TSP in the case of districts with ITDAs. The TSP projects/proposals of such districts shall be approved by the ITDAs concerned. PO, ITDA shall monitor the implementation of all programs in the ITDA areas.

the towns listed in recent Census that have an ST population of more than 10,000, which could serve as a first step.

In metropolitan areas, the immigrant tribals are facing a plethora of problems. The violence against people coming from Northeast in Delhi, Bangalore and other cities, and the perception of these people that all violence is racist have become two serious issues. Violence against women in public places, road rage, etc. are common in Delhi. Some such violence may be targeted racially, but the bulk of violence is similar to that which happens to any other community who has come to the city from another part recently, and may not be racist. There is also trafficking from Schedule V areas of tribal women (and men and children) to cities to work as domestics. In metropolis, absence of habitat is the biggest issue, which makes the migrant population vulnerable. Some of this problem has to be tackled at the place of push migration which we have discussed throughout the report. But in some big cities, there is need for centers which will provide registration, counseling and information. These centers should also assist in the States where such migration originates.

10.6 Knowledge and capacity-building institutions – Tribal Research Institutions

The Government of India has always recognized the need for continued research on cultural, anthropological, socio-economic and related issues concerning tribals. The outcome of this research and documentation work is expected to feed into the policy and programmes for tribal development. In view of this, the Ministry of Tribal Affairs has been supporting Tribal Research Institutes (TRIs) in 18 States on 50:50 sharing basis between States and the Centre and one TRI in the Andaman and Nicobar Island Union Territory with 100 percent grant. In addition, 100 percent grants are given for specific research projects from the Ministry of Tribal Affairs. These institutions are required to undertake studies, research & documentation so as to provide planning inputs to the State Governments and also conduct training, seminars and workshops, documentation of customary laws, setting up of tribal museum for exhibiting tribal artefacts, and other related activities. However, most of the TRIs are facing financial and manpower constraints. In view of the fiscal responsibility laws, recruitments to existing posts has been frozen in several areas in most of the States, and Tribal Research Institutions have been neglected in the process. There is a need for strengthening and broadening research and training activities by these institutions. The main functions/ responsibilities of the TRIs should be:

- To develop a repository of knowledge and research
- To support evidence-based policy, planning and legislations
- To provide basic training, post-recruitment to Tribal Welfare Service officials

- To build capacity of tribal people, functionaries engaged in tribal welfare programs/ schemes, Self Help Groups and elected representatives on matters relating to livelihood as well as laws such as Forest Rights Act (FRA), PESA Act and Regulations in Scheduled Areas
- To disseminate information and create awareness on tribal issues, entitlements, schemes and programmes

To achieve these goals, the TRIs would need to:

- Build capacity to coordinate and network with related research institutes and organizations as well as academic bodies;
- Create basic minimum infrastructure with a research wing, conference hall, library, training hostel and museum as part of the TRI structure.
- Assist in recruitment of a core group of professionals, which shall comprise experts from various disciplines including Anthropology, Tribal Studies, Development Studies, Culture Studies, Ethnography and Statistics. Director of TRIs should be a full time officer.

Having seen the impact of fiscal responsibility regimes, which have resulted in staff reduction in TRIs, we recommend that the Union Government will have to support emolument for the manpower at least for five years. The support for research and contractual staff on 100 percent grant basis should continue.

10.7 Anthropological Survey of India

The Anthropological Survey of India (AnSI) is one of the many organizations under the Ministry of Culture. However, the primary focus of AnSI is study of tribals. Our interaction with present and former officials suggests that AnSI can become a more relevant and functional organization, if it is brought under the administrative control of Ministry of Tribal Affairs. This will enable MoTA to have a one-source technical body on tribal issues.

10.8 Prioritizing Grants under Special Area Programmes

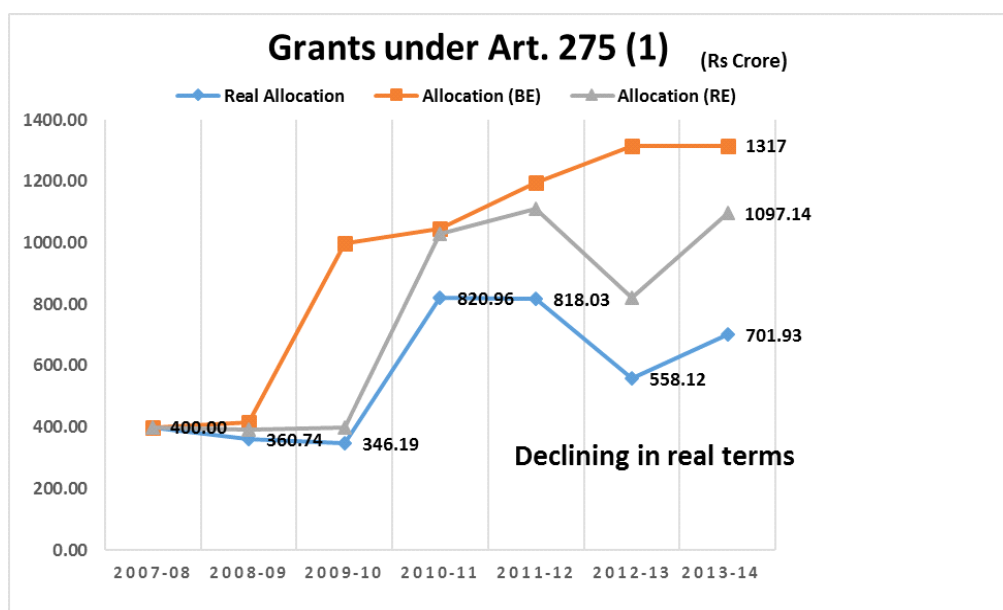
The Ministry of Tribal affairs is seriously considering this matter and has issued new 'Operational Guidelines for formulation, implementation and monitoring of Tribal Sub-Plan and Article 275(1) Grants' in 2013-14, which prioritize expenditure for strengthening of ITDAs and TRIs. The order of priority is as follows:

- Strengthening of ITDAs/dedicated micro projects/create new ITDAs
- Supporting additional manpower in livelihood and engineering wings within ITDAs

- Strengthening Tribal Research Institutes
- Support to Residential Schools and Government hospitals in tribal areas
- Support to linkage with livelihood projects
- Any other project relating to wellbeing of tribals.

The guidelines mention that Stand-alone projects without forward and backward linkages will not be supported. There is concern that the Ministry will be constrained in its objectives on account of the stagnation of budget outlays, under its two Special Area Programmes. Grants under both these programmes are broadly intended at providing additive support to the efforts of State Governments towards overall socio-economic growth of the Scheduled Tribe population. Grants under Article 275 (1) of the Constitution of India are given for helping States in promoting the welfare of STs and raise the level of administration in Tribal areas to bring them at par with that in the rest of the State to ensure effective implementation of development projects. A part of the grants under Article 275 (1) of the Constitution are also used for meeting the capital and recurring costs Eklavya Model Residential Schools (EMRS) in the States/UTs for providing quality education to Scheduled Tribe students in remote areas. These outlays have been declining in real terms (Figure 10.1) in recent years, severely limiting the Ministry's ability to extend assistance to States and, in turn, States ability to undertake upgradation of administration in tribal areas.

Figure 10.1



10.9 Union Finance Commission

Why Union Finance Commission (UFC) should make recommendations under Article 275(1) including provisos:

- It is seen from the Terms of Reference of the Fourteenth Finance Commission (FFC) that determination of principles for transfer of funds under the provisos to Clause 1 of Article 275 of the Constitution of India are specifically excluded. This exception may have been made on the basis of a communication from the Ministry of Finance way back in 1956 to the then Finance Commission which stated that a proviso to a particular provision of the statute carves out an exception to the main provision and that, therefore, the proviso to Article 275 of the Constitution is distinct from Article 275(1). In this context, Ministry of Tribal Affairs has written to the Fourteenth Finance Commission clearly explaining why the Union Finance Commission should recommend on Article 275 grants including the provisos. This view of the Ministry may be reiterated to emphasise that throughout the Constitution, when a reference is made to an Article or clause, no express provision has been made to exclude or include the proviso to that particular Article.
- In this context, the order of the Apex Court of 1985⁴¹⁶ cited at page 9277 states that the proviso to Article 275 is one of the provisions under the Scheme of the Constitution which aims at the protection, advancement and prevention of exploitation of tribal people and therefore, is an integral part of Article 275.
- The grants under Article 275 are fixed on the basis of the recommendations of the Finance Commission.⁴¹⁷ This makes no distinction between so-called main clause and proviso.⁴¹⁸
- The grants given to States as well as the Ministry are charged on the Consolidated Fund of India and therefore, this means that both the funds under Article 275(1) and the proviso are on the same footing. The observation in 1956 was:

“The effect of provisos to clause (1) is thus to carve out an exception to that clause by taking away the power conferred on Parliament under its substantive part so far as grants in aid covered by the said provisos are concerned”.

Since the grants under Article 275 (1) and its proviso are both 'charged' and not 'voted', therefore, there is no distinction between these two forms of grant-in-aid as

⁴¹⁶ *Lingappa Pochanna Appealwar V. State of Maharashtra, AIR 1985 SC 389: (1985) SCC 479.*

⁴¹⁷ *Durga Das Basu's Commentary on the Constitution of India, Eighth Edition, Vol. 8, 2011.*

⁴¹⁸ *Ibid, page 9278.*

far as the powers of the Parliament are concerned. Therefore, the above view of 1956 does not conform to the Constitution.

- The mandate of the Union Finance Commission under Article 275 is in addition to the mandate under Article 280 because Article 280 does not include expressly the provision of Article 275. In view of this, Article 275 has to be read in addition to Article 280.
- The scope of Article 275 and Article 275(1) does not distinguish between the so-called 'main' clause and the proviso.⁴¹⁹
- The Eighth Finance Commission had made recommendations under the proviso to Article 275(1).⁴²⁰ The 13th Finance Commission also made recommendations relating to Fifth and Sixth Schedule Areas, though their ToR was same as that of FFC and these recommendations were accepted.
- The principles governing grant-in-aid under Article 280 (3) includes the proviso in Article 275(1).⁴²¹
- The above clearly shows that the Constitutional provisions, case law, interpretation by Constitutional experts and precedents mandate the Union Finance Commission to make recommendations relating to grants under Article 275, including provisos.
- The scheme-based grants under the proviso were used to maintain the institutions for administration and development of tribal people. However, the funds available for MoTA (which essentially means scheme approved by the Union Government) (Figure 10.1) have declined in real terms. When bulk of the funds were released to the States under Article 275(1) 'main' clause, the Institutions like ITDAs and Tribal Research Institutions have been allowed to wither away in most states.
- It is for these reasons that every Finance Commission constituted by the Government of India should recommend on Article 275 grants, including the provisos.

⁴¹⁹ *Ibid*, page 9277-9278.

⁴²⁰ *Ibid*, page 9280.

⁴²¹ *Ibid*, page 9301-02.

10.11 Recommendations

1. The Andhra Pradesh model for ITDAs should be used as a reference point for restructuring of ITDAs to ensure effective delivery of benefits to the tribal people. In case of PVTG/extremely backward tribal communities whether recognized as ST or not, the model of 'microprojects' of Odisha could be a model, at least as it existed earlier. In the case of dispersed population of tribals outside the geographical limit of existing ITDAs/ITDPs, there is no agency dedicated to deliver the programs meant for STs in an effective manner. Thus, new ITDPs/ITDAs need to be created in the blocks, where ST population is 25 percent or higher or 10,000 or higher.
2. In case of dispersed population of tribals and displaced population (due to infrastructure projects, conflicts) in some States, including the Northeastern region, there is no agency dedicated to deliver the programs. Therefore, new micro-agencies need to be created in such pockets to cater to specific tribal groups.
3. Absence of supporting staff for implementing the MGNREGA and FRA has resulted in low absorption of funds available for supervision of these works. This requires additional technical staff for ITDA/micro projects etc.
4. Many tribals have migrated to urban areas and are wage-earners. It is imperative that States work towards the creation of micro projects in urban areas which have substantial ST population. We are of the view that each State can take the towns listed in Census 2011 that have an ST population of more than 10000, as a starting point.
5. Most Tribal Research Institutions (TRIs) are facing financial and manpower constraints and are finding it difficult to perform their functions effectively. There is an urgent need for strengthening and broadening research and training activities by these institutions.
6. The transfer of TRI, Madhya Pradesh, to the Department of Culture has weakened the TRI. This Institution had been built primarily with resources from Tribal Development funds. This should be restored to the Department of Tribal Affairs of the State Government so that this functions as the capacity-building component of TRI and not just as a place of tourist attraction.

7. The Anthropological Survey of India (AnSI) is one of the many organizations under the Ministry of Culture. However, the primary focus of AnSI is study of tribals. Interaction with present and former officials suggests that AnSI can become a stronger organization if it comes under Ministry of Tribal Affairs. The Ministry officials are also of the view that if the AnSI comes under MoTA, then MoTA will have a one-source technical body on issues relating to tribals.

8. Funds available to the Ministry of Tribal Affairs for giving grants to States under Article 275 (1) of the Constitution should be substantially enhanced so as to enable the Ministry to provide larger support to the States for strengthening of institutions and upgradation of administration in tribal areas in accordance with priorities laid down under its operational guidelines. These funds may be provided from both the Planning Commission as well as successive Finance Commissions.

Recommendations at a Glance

Tribes: Legal and Administrative Framework

1. During the colonial period, tribal communities inhabited areas were divided into 'excluded' and 'partially excluded' areas for purpose of administration. Such administrative arrangements have found continuation in post-independence India in the form of Sixth and Fifth Schedules of the Constitution. Laws enacted by the Governor-General in Council or Governor in Council were not automatically applicable in these areas in colonial India unless Governor General or Governor thought otherwise. In post-Independence India, this legal provision has been continued in Sixth Schedule Areas, but not in Fifth Schedule Areas. Thus, laws passed by the Parliament or State Legislature are not directly applicable in Sixth Schedule Areas unless the Governor thinks it desirable. In the Fifth Schedule Areas, laws passed by these bodies are automatically applicable, unless the Governor thinks it to be not in the interest and welfare of the tribal communities of the State.

There have been laws and policies passed by the Parliament and State Legislatures such as the Forest Conservation Act, 1980, the Wildlife Protection Act, 1972, the Panchayat Acts (prior to the passing of the 73rd Amendment in 1992), and so on which have had an adverse and detrimental impact on tribal communities. Yet the Governors have not exercised their constitutional power towards the protection and welfare of the tribal communities. This opens up two possibilities:

(i) Laws and policies enacted by the Parliament and State Legislatures should not be automatically applied in the Fifth Schedule areas (as was the case under colonial rule or as is presently the case in the Sixth Schedule areas). Its applicability should be made contingent on the discretion of the Governor who would determine its applicability or non-applicability or applicability with modifications/amendments on the advice of Tribes Advisory Council and issue a Statement of Objectives and Reasons for decisions on both applicability and inapplicability of laws and policies.

(ii) In case the above is untenable, the Governor should be mandated to take the advice of the Tribes Advisory Council and examine legislations and policies (particularly, though not exclusively, those pertaining to issues such as forests, land acquisition, conservation, mines and minerals, health and education) passed by the Parliament or State Legislatures and the implications of the same on tribal welfare. A mechanism for such examination and action should be clearly stated and established.

2. Actions taken by the Governor for safeguarding the interests of tribal communities should be clearly mentioned in the annual Governor's Reports submitted to the President. The Governors must be mandated to ensure the timely submission of these reports. To this end, the Governor's office must be adequately assisted by specially set up competent and dedicated team in the form of Governor's Cell for Scheduled Tribes (as has already been initiated in some States).

3. The Tribes Advisory Council is an integral part of the administrative structure of the Fifth Schedule. Currently, the TAC consists of 20 members, of which two-thirds is comprised of elected members in the State Legislature belonging to the Scheduled Tribes. The rest are nominated members who generally tend to be government officials working in Ministries and Departments associated with tribal development. In this regard, we recommend that:

(i) There needs to be a radical restructuring of the composition of the TAC. Instead of two-thirds elected members from the State Legislature, this should be restricted to half the members of the TAC. Moreover, these elected representatives must come from different political parties, rather than only from the ruling party. The remaining one-half should be comprised of Chairpersons of the district Panchayat bodies (or chairpersons of the Autonomous Council, wherever established) of the Scheduled Areas on a rotational basis.

(ii) Tribes Advisory Council should be empowered, made active and responsible for the tribal affairs in the State through the following measures:

- The scope and responsibilities of TAC should be widened to transform it into the Tribes Advisory, Protective and Developmental Council. Constitutional provisions, laws, policies, and administrative matters pertaining to the Scheduled Tribes must come under its ambit.
- The tribal development plan of a State and its outlay should be approved by the TAC before it is placed before the Legislative Assembly.
- In view of the serious responsibility placed on the TAC, it should be made compulsory for the Council to meet at least four times a year.
- The Tribal Welfare Department should be made accountable to the TAC. It should present its annual plan, budget and performance report to the TAC and receive its approval for the next year.
- The agenda for the TAC meetings should be prepared through due consultation with the members.

- The Governor should be made responsible for the overall functioning of the TAC.

4. The provisions of the Sixth Schedule provide considerable space for autonomy and self-governance. Through the Autonomous Councils, tribals have the opportunity to enact legislations, execute programmes and adjudicate at a scale larger than their individual villages. Such a provision has helped tribes of the Northeast to protect their habitat, land, forests, natural resources, culture and identity. They have not experienced displacement and land alienation on the scale that tribes in ‘mainland’ India have. In view of these powers of political autonomy, the tribal communities in the Northeast region have fared much better in respect of socio-economic, educational and health status.⁴²² In contrast, the tribes in mainland have fared miserably in all these spheres. Hence, there is an urgent need for extending the pattern of the Sixth Schedule in the form of Autonomous Councils in the Fifth Schedule areas as has been provided for in the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996. The specific provision notes that, “the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas”.

This pattern would provide tribal areas with an institutional structure that mediates between the State Government and hamlet-level Gram Sabha. There are various forms of Autonomous Councils in the Sixth Schedule areas. These are represented by Meghalaya, Mizoram, Tripura and Assam. On the question of which pattern would best suit the ‘mainland’ tribal regions should be seriously deliberated and worked upon by the States with Fifth Schedule areas.

5. There are a large number of States wherein tribes form a sizeable population in blocks or villages, for example, in States like West Bengal, Kerala, Tamil Nadu, Karnataka, Goa, etc. Tribal areas in these States must be brought under the ambit of Scheduled Areas.

6. There are various impediments to the smooth and inclusive working of the Autonomous Councils in Sixth Schedule areas which must be addressed. In order to do so, we propose the following:

- Autonomous Councils must be covered under State Finance Commission that is empowered to review periodically the financial position and lay down appropriate principles of resource distribution between State and the Autonomous Council. Funding should not be left to arbitrary discretion of the State Governments.
- The ADC should be reconstituted within six months of its dissolution.

⁴²² There are several other reasons for this situation, most importantly, the relative homogeneity of the population in Northeastern states, a tribal majority in many states and a history of missionary activity. However, the provisions of the Sixth Schedule have also made a significant contribution.

- There should be provision for reservation for tribal women (one-third) as well as smaller tribal groups in the ADCs and other political institutions.
- Traditional political institutions at the village/hamlet level should be formally recognized by the State.

Livelihoods and Employment Status

1. There is a dire need to establish agro-based training institutions and related labour-intensive processing industries in tribal regions. Terms and quantum of micro-credit should be made reasonable for individuals, SHGs, cooperative institutions and Gram Sabhas in Scheduled Areas for the tribes to pursue these occupations.
2. In order to make use of land available with the tribal farmers, they should be motivated to undertake organic farming and eco-forestry. This requires concerted efforts by the Departments of Agriculture and Forest to motivate the tribal farmers to undertake such activities.
3. Although a majority of Scheduled Tribes have land, and cultivation is their main occupation, water for agriculture is the greatest impediment in production. Micro watershed development program with people-centered participatory approach is a good method for poverty reduction through natural resource management in tribal regions. Therefore, micro watershed should be given top-most priority in tribal areas to enhance agricultural productivity.
4. It is imperative to strategize water management in degraded and undulating land, dependent on erratic monsoon. Water conservation through large dams has been proved contrary to the interests of the tribes. Therefore, the best strategy would be to construct water harvesting structures on various small and large water sources. Even on big rivers, small water harvesting structures could be constructed, which would be environment friendly.
5. The deprivation of STs of cultivated land adds to their marginalization and penury. This warrants the prevention of all kinds of tribal land alienation through strict enforcement of laws and restoration of alienated land to the tribal owners as per the provisions of the PESA and the confirmatory Acts by various States. There should be monitoring agencies at the National and State levels to prevent alienation of tribal land and its restoration.
6. Since tribal inhabited regions have good forest cover (with or without trees now), they should be allowed to participate in the protection and management of forests. The newly acquired land under FRA, 2006 could be utilized in eco-

forestry rather than for food grain cultivation, which could give more return to the ST farmers, in case they want to opt for it.

7. Credit and marketing facilities need to be extended to the STs. Delivery of social justice must be monitored by the National Commission for Scheduled Tribes, both at the national and state levels.
8. There is severe under-representation of STs and pending vacancies in Central Government services. As far as the representation of STs in Public Sector Banks, Financial Institutions and Insurance Companies, STs accounts for 6.55 per cent, which is less than the mandatory 7.5 per cent of ST reservations to be followed by these institutions. Therefore, the Government should follow a transparent policy with regard to jobs for STs in public sector. No ST candidates who fulfill the basic eligibility criteria for a specific post should be rejected on the ground of no suitable candidates found.
9. The discriminatory credit policy of the financial institutions is a major deterrent in the participation of STs in business. Entrepreneurs among STs must be given credit facility on par with other social groups. Further, all steps must be taken by the Government for skill development among the tribal youth to make them employable or self-employed, according to their aspirations.
10. The participation of STs in MGNREGA has been decreasing from its inception in 2006. This trend is very disturbing, which should be investigated and monitored by a special agency under the administrative control of MoTA.
11. Tribals should be encouraged to use their traditional knowledge to meet their needs by recreating their forest ecosystem and forest-based livelihood.
12. The Particularly Vulnerable Tribal Groups (PVTGs) among the tribes need special attention due to their vulnerability in the present situation. Their customary right to land, forest and sources of livelihood must be respected and protected. The issue of nomenclature must be addressed by commissioning a special study. MoTA should ensure that all states having PVTGs should take steps to have micro-projects for individual PVTGs to utilize the grants received under SCA. The Project Offices for PVTGs should be made to report to the MoTA about the development activities undertaken for the PVTGs under their jurisdiction, rather than submitting allocation and expenditure statements.
13. Data on development parameters with respect to STs are not available for the purpose of policy planning and implementation. Therefore, a National Institute

of Tribal Development, an autonomous research organization, has to be set up exclusively for undertaking research on STs.

Education

1. The purpose of education anywhere, including in tribal areas, should be to provide children with an understanding of the environment and society in which they live and to endow them with the capability to earn a livelihood in the local society and, for those who have the desire and ability, in the national job market.
2. There is a marked gender gap with respect to education in tribal society. This is reflected in the disparity in literacy levels, drop-out rates and enrolment in higher education. Hence, there is a need for greater gender focus and social mobilization to encourage education of girls. The State must develop certain mechanisms to this effect.
3. Since the educational scenario in tribal areas is marked by poor infrastructure, providing adequate infrastructure, such as classrooms, teachers and teaching aids as well as basic facilities like electricity, water, boundary walls and toilets is absolutely essential for the proper functioning of these schools and from the perspective of security and safety of children.
4. In view of the deteriorating condition of elementary education in tribal areas, where Sarva Siksha Abhiyan has hardly been of help, recourse should be taken to the Right of Children to Free and Compulsory Education Act, 2009 which provides for compulsory enrolment of all children between the age group 6 to 14, re-enrolment of those who have dropped out with the facility of special coaching for admission in a class appropriate to his or her age, and admission of a child in a neighbouring school of his or her choice. The Act should be stringently implemented.
5. Keeping in view the difficulties of adjusting to a new cultural environment, teachers for schools in the tribal regions should be recruited locally. Along with the teaching staff, the administrative staff dealing with tribal education should have regular orientation courses to appreciate tribal culture and way of life. To facilitate such training, the centers of training should be located in the tribal areas. There should be a separate cadre of teaching and administrative staff, who will serve among the tribal schools over the long run.
6. New teacher training institutions should be opened in the TSP areas to meet the full requirement of qualified and trained teachers. The curriculum for the training should be drawn up very carefully, taking into account the socio-cultural milieu, tribal ethos, language etc.

7. The dearth of teachers fulfilling the eligibility criteria set out under the RTE Act is an impediment to achieving the right to education in tribal areas. For addressing the current crisis of absence of teachers in tribal areas, special efforts need to be made to produce more teachers who have qualified the Teachers Ability Test. This must be done on an emergency basis. In the interregnum, teachers appointed in educational institutions must be given a term within which they qualify the Teachers Eligibility Test, and facilities be provided to assist them in taking this test, including training, courses and access to materials.
8. The State Governments should develop a policy for multilingual education, so that early learning is conducted in the local language.
9. The experiment with the Model Primer developed in Odisha and other similar ventures may be worked upon in TSP areas and in tribal languages in other states as well.
10. Inclusion of local culture, folklore and history in the curriculum can help in building confidence of tribal children and enhance the relevance of education in their lives. Music and dance are a central part of tribal life. Therefore, storytelling, theatre, painting, music and dance performances should be promoted. Similarly, sports such as football, archery and other popular local sports are extremely beneficial and therapeutic for children, and should be promoted.
11. Recognizing that the tribal people have certain cultural 'genius', different aspects of 'indigenous knowledge' should be documented, researched and promoted. For developing better understanding of the tribal cultures and their promotion, there should be appropriate number of tribal cultural academies in regional centres. An important step in this direction is teaching tribal history and culture in schools for both tribal and non-tribal children.
12. To address the problem of low representation of the tribals in higher education, it is necessary to refurbish primary and secondary school education through special coaching.
13. Institutions of ITDAs/ITDPs and micro-projects support to the tribal schools should be strengthened for prevention of dropouts.
14. The policy of no-detention needs a review. When the student, teachers, or parents of the student request for retention of a child to enable him/her to acquire skills to move to the next class, he/she should be retained.
15. In light of the harsh terrain of tribal inhabitations, norms concerning distance and Pupil-Teacher Ratio, at all levels of school education, should be reviewed.

16. The policy of vocational education at the secondary and senior secondary level needs further integration and strengthening.
17. There is a marked absence of quality secondary and higher secondary schools in tribal areas. The Government needs to establish well-run residential schools such as Jawahar Navodaya Vidyalayas closer to the habitations (within a radius of ten kilometres) up to Class XII. These schools must provide comprehensive facilities for marginalized children including quality education, health care and academic support classes.
18. Residential schools should be set up specifically for Nomadic Tribes. The basic principles are: (a) The residential schools should be in places where the weather is least harsh, (b) there should be special security for the children, including girl children for whom there should be women wardens, (c) the parents of students should be brought to these institutions so that they are informed about the education, and quality of life, of their children, (d) there should be proactive efforts by Tribal Affairs officials of the State to approach every family to help them make an informed choice to send their children to the schools, (e) the holidays for these schools should be fixed in such a way that the children can meet their family, when the family returns to the place where they celebrate festivals, weddings, etc.
19. In residential schools, which are often in the news for incidents of sexual abuse of students, strong mechanisms should be put in place to protect the students from abuse, neglect, exploitation and violence.
20. There is a need to recognise the adverse impact of violence on children's education. No schools or areas in the immediate vicinity of schools should be occupied by security forces or the police, as has been the case in conflict zones in tribal areas. Demilitarisation of schools is vital in order to restore schools as a place of safety, security and scholarship for students.
21. Involvement of community in educational interventions through the Panchayati Raj Institutions needs to be institutionalized. Information on various schemes and benefits to beneficiaries should be provided to the Gram Sabhas and Gram Panchayats, which would create transparency and increase awareness about their entitlements.
22. There is a need for regular social audits to monitor the functioning of schools. To this end, a monitoring committee at the block level for primary and middle schools and district level for high and higher secondary schools should be set up.

23. Most of the educational ‘missions’ do not reach the tribal areas and where they do reach, they are too rare to have any significant impact. The State educational machinery is largely responsible for this situation. There should be proper accountability of the State educational administration to end the longstanding stagnation in education in tribal areas.
24. The scope of education needs to be expanded for the purpose of scholarships and should include tribal painting, art, craft, song, music and dance, etc. While the Ministry of Tribal Affairs is now supporting scholarships for students belonging to Scheduled Tribes, the UGC and the MoTA should support scholarships for tribal studies for non-tribal students also. A single window scholarship portal targeting the Scheduled Tribe students should be established to provide information on different scholarship schemes.
25. Regional Resource Centres in States with significant tribal populations should be established to provide training, academic and other technical support for development of pedagogic tools and education materials catering to multilingual situation.
26. It is suggested that owing to poor condition of the State Tribal Research Institutes, there is the need to improve the same in terms of infrastructure, quality of staff, research output and direction for policy. It is also recommended that a Central Tribal Research Institute, as has been planned by the Central Government, be launched.
27. It is recommended that a Tribal Chair be established by the UGC in Universities in every State comprising Fifth Schedule Areas.

Health

1. The first principle of any policy or program for tribal people is participation. Tribal people as a population segment are not politically very vocal. However, they have different geographical, social, economic and cultural environments, different kind of health cultures and health care needs. Hence their views and priorities must get due place in any health care program, meant for them. We suggest making use of three types of existing institutional mechanisms to improve the programs.
 - Tribal Health Assembly: From the Gram Sabhas at village level, upto the national level, Tribal Health Assemblies should be annually organized in which the people (at the level of village) or their representatives (at the higher levels) participate. For instance, such a ‘Tribal Health Assembly’ is annually organized for the past 15 years by an NGO, SEARCH, in Gadchiroli district (Maharashtra) for three purposes, a) to listen to the health problems and priorities of the people, b) to get approval for the

proposed health solutions and activities, c) to get their feedback on ongoing activities. This can serve as a model at the local level in other Scheduled Areas. At least one Gram Sabha meeting annually should be exclusively dedicated to the purpose of health and related subjects.

- Tribal Health Councils: These should be constituted by including elected representatives, NGOs, experts and government officers for the purpose of planning and monitoring of programs. Such councils should be constituted at the block or ITDP level, district, state and national level. These should be empowered to shape the health plans and monitor implementation. These sub-committees of Panchayat level, district level and Zilla Parishad could function as Tribal Health Councils.
 - Tribes Advisory Councils at the state level: These Councils should approve the health plans prepared by the Tribal Health Councils, and to review the performance of implementation.
2. In view of the enormous diversity among nearly 700 tribes in India, the second principle to be followed is of area specific and tribe-sensitive local planning. The PESA provides an institutional basis for this. The three institutional mechanisms suggested above, when created and made operational at the block, district and state level, will allow local planning.
 3. Social determinants of health – literacy, income, water, sanitation, fuel, food security and dietary diversity, gender sensitivity, transport and connectivity – play very important role in determining the health outcomes. Hence, inter-sectoral coordination for improvement in other sectors is as important, if not more, as health care. Some specific suggestions for improving health are:
 - The construction of drainage system, village sanitation infrastructure, personal toilets and the environmental measures to control mosquito-breeding can be included in the MGNREGA scheme and completed on priority basis in Scheduled Areas.
 - To reduce the household use of unclean fuels and biomass burning, the solar energy, especially the solar cooker, water heaters and lights be promoted in Scheduled Areas. This will also help save trees.
 - Improving nutrition of children, adolescents and pregnant and lactating women is critical for the Scheduled Tribes population. The nutrition awareness and feeding programs in the Scheduled Areas can be better implemented in collaboration with the National Rural Livelihood Mission and the women's saving groups in the villages.
 - Health and income available for family will show improvement by controlling alcohol and tobacco.
 4. Empowerment of the Scheduled Tribe people is another cardinal principle. Building their capabilities to care for their health is the long term solution far

superior to a perpetual dependence. This however does not mean that the government or the rest of the society can abdicate their responsibility towards tribal people. But this responsibility can be better served in long run by building local capacity. In other words, instead of ‘giving’ health care, the policy should be to build ‘capacity to care for health’. This principle should guide in planning health care – especially in the choice of who will provide health care, where, when and how.

5. To bridge the scientific knowledge gap of centuries, health care for Scheduled Areas should give paramount importance to spreading ‘health literacy’ by way of mass educational methods, folk media, modern media and school curriculum. Enormous scope exists for communication in local dialects and for the use of technology.
6. A large number of Scheduled Tribe children and youth – more than one crore – are currently in schools. This provides a great opportunity – both for improving their health and for imparting health related knowledge and practices. Schools, including the primary schools, middle schools, high schools, ashram shalas and also the Anganwadis should become the Primary Health Knowledge Centers.
7. Special attention should be given to women, children, old and disabled people in the Scheduled Tribe population as these are the most vulnerable.
8. Traditional healers and Dais play an important role in the indigenous health care. Instead of alienating or rejecting them, a sensitive way of including them or getting their cooperation in health care, must be explored. Traditional herbal medicines should be protected through community ownership. The ownership and intellectual property rights of tribal community over their own herbal medicines and practices should be ensured.
9. Apart from the physical distance, a huge cultural distance separates the tribal population from others. Health care delivery to the Scheduled Tribe population should be culture-sensitive and in the local language in order to overcome this distance.
10. Health care delivery system for Scheduled Areas must keep as its guiding principle the Chinese axiom – How far can a mother walk on foot with a sick baby? Health care must be available within that distance. This, for the tribal communities living in forests, means health care must be available in their village/hamlet. Sixty years of failure should teach us that health care from outside is not a feasible solution. The design of health care in Scheduled Areas should be such that major share of health promotion and prevention and a sizable proportion of curative care is generated and provided within the village or hamlet.

11. In light of these principles and in view of the common disease pattern and needs listed earlier in the conclusions section, we recommend that the Ministry of Health and Family Welfare should redesign the primary and secondary health care services in Scheduled Areas. The new pattern should not be enforced as a top-down, vertical, uniform national program, but should provide a framework for local planning with local participation. Thus, the 'Tribal Health Plan' will have three features: one, a process framework about 'how' to prepare the local plan, which will be in the form of guidelines on mechanisms; second, a series of locally developed need-based contents of the plan and third, a design or structure of the health care system to deliver such services in all Scheduled Areas. This 'Tribal Health Plan' should become an essential feature of the National Health Mission and of the Tribal Sub Plan. The goals and monitoring indicators of this plan will be different than the regular MIS of the NHM.
12. Human Resources for Health: The well-known difficulties in deploying doctors, nurses and other technical personnel from outside, into Scheduled Areas have made the problem of human resources the Achilles' heel of health care in Scheduled Areas. We recommend that, instead of making futile efforts to import unwilling and unstable personnel from outside, the most feasible and effective long term solution will be to select, train and deploy local Scheduled Tribe candidates. This should be done at the following levels:
- Accredited Social Health Activists (ASHA) and Anganwadi workers – from the same village or the hamlet.
 - The ANMs and paramedic workers – from the same block.
 - The doctors and public health program managers – to a large extent, from the same district.

The candidates must be local, belong to Scheduled Tribes, be fluent in local tribal dialects, be selected on merit and should be committed to serve in the local Scheduled Area for at least ten years.

The ASHA workers, Anganwadi workers and ANMs will continue to be the mainstay of health care in rural and tribal areas. Due to the physical isolation of tribal communities, compounded by a lack of doctors, it will be pragmatic to train, equip and empower the three 'As' – ASHA workers, Anganwadi workers and ANMs – in tribal areas to a higher level.

Since the selection for medical education is through a statewide and all India competitive process, the local Scheduled Tribe candidates may not get selected. Hence, we recommend that separate Medical Colleges for Tribal Areas be opened in selected scheduled districts, one college per three million Scheduled Tribe

population in the state. All seats are to be reserved for such committed Scheduled Tribe candidates, to be selected from the respective Scheduled Areas, depending on the population and need for doctors in each Scheduled Area. The aim should be to provide, in ten years, the required number of appropriately trained doctors to serve in these areas. The High Level Expert Group (HLEG) on Universal Health Care, appointed by the Planning Commission, in its report (2011), has recommended that the District Knowledge and Training Centers be developed and made into medical colleges attached to district hospitals, and nearly 187 new medical colleges should be opened in the country, especially in undeveloped regions. These recommendations can be used to open Medical Colleges for Tribal Areas. Approximately 30 new medical colleges for tribal areas, each with 60 seats per year, will be able to produce nationally about 1800 new doctors per year, selected from, trained and legally committed to work in the Scheduled Area of their origin.

The Medical Education for Tribal Areas (META) should be, to some extent, different from the regular MBBS, and hence, should not entirely follow the curriculum of the Medical Council of India. Besides the regular medical curriculum, some modifications are necessary such as: i) knowledge of and sensitivity towards tribal culture and language, ii) methods of communication iii) training and management of a health team, iv) competencies in preventing and managing health problems common among the Scheduled Tribe population by way of clinical, outreach and public health approaches, v) collaboration with other sectors of development affecting health, eg. sanitation, nutrition, education, forestry. If necessary, the MCI recognition for this degree may not be sought, or a new degree different than MBBS be created, with legal permission to function as a doctor in Scheduled Areas.

13. Addiction has serious effects on the socio-economic fabric of tribal society. It affects not only health but also productivity, family economy, social harmony and ultimately, development. Hence, i) the Excise Policy for Scheduled Areas, approved by the Ministry of Home Affairs, Government of India, in 1976 and accepted by the states, should be implemented effectively, ii) the availability and consumption of tobacco and drugs should be severely controlled and iii) the availability and use of alcohol and tobacco products among the Scheduled Tribe population, and the implementation of control policies by the states, should be monitored on selected indicators. These efforts should become a critical part of the Tribal Sub-Plan.
14. The TSP budget, in proportion to the Scheduled Tribe population, should be an additional input and not a substitute to the regular budget for routine activities of the Health Department in Scheduled Areas. At least ten percent of the total TSP budget should be committed to the health sector, the Tribal Health Plan in the Scheduled Areas, in addition to the regular health budget for these areas.

15. Data on the Scheduled Tribe population is a basic ingredient for planning, monitoring and evaluating health programs in Scheduled Areas. All national data systems – the Census, SRS, NFHS, NSSO, and DLHS – should be asked to plan for and generate Scheduled Tribe-specific estimates on health indicators at the district level and above. One percent of the total budget for the Scheduled Tribe population (TSP) should be allocated to the generation of reliable, timely, and relevant segregated data on Scheduled Tribes population, from the local to national level. This will provide the crucial instrument – the facts – necessary to guide program managers, policy makers and the Scheduled Tribe population itself. Towards this, the specific measures recommended are:

- Construction of a composite Tribal Development Index (TDI)
- Construction of a composite Tribal Health Index (THI) including the indicators on health status, determinants and health care.
- Ranking of 151 districts with more than 25 percent Scheduled Tribes population and of states on these indices.
- Creation of a high power national body under the Ministry of Health and Family Welfare to facilitate the commissioning and collection of relevant data and monitoring of the indices and progress. This body should complete the work through the various existing agencies/surveys such SRS, NSSO, NFHS, DLHS, AHS, NNMB, the TRTIs in the states, the ICMR institutes network on tribal health, and finally, the health ministries in the states. Necessary administrative and financial authority should be provided to this body. Broadly, one percent of the total health budget for tribal areas (the regular health budget for Scheduled Areas, including the health component in the TSP) should be devoted for this purpose.

16. Research: From the public health point of view, certain aspects of tribal health need research. These are:

- Epidemiology, disease patterns and mortality rates in Scheduled Areas,
- Traditional belief systems and practices, and effective communication methods,
- Tribal healing systems,
- Methods of health care delivery in Scheduled Areas.

The AYUSH (Ayurveda, Yoga, Unani, Siddha, and Homeopathy) department and the Indian Council of Medical Research should incorporate these into their scope of working.

17. The Proposed Goals of the Tribal Health Plan should be:

- To attain the Millennium Development Goals (2015) on health and nutrition for the Scheduled Tribe population in India by the year 2020,

- To bring the health, sanitation and nutrition status of the Scheduled Tribe population to the same level as that of the non-Scheduled Tribe population in the respective states by the year 2025,
- To create the human resources necessary for provision of healthcare in Scheduled Areas, as per the norms set by the High Level Expert Group on Universal Health Coverage (2011), by the year 2025,
- To create and make functional the institutions for participatory governance (Tribal Health Assemblies and Councils) at all levels in the Scheduled Areas by the year 2016,
- To annually generate Tribal Health Plans at all levels by the year 2017,
- To annually allocate and spend 8.6 percent, in proportion to the Scheduled Tribes population, of the total Health Sector Plan and Non-plan budget, plus 10 percent of the TSP for the implementation of the Tribal Health Plan.

Land Alienation, Displacement and Enforced Migration

1. Serious effort is required by the State to minimize displacement. There should be a rights- based approach to comprehensive rehabilitation for socio-economic reconstitution of victims of development, including for the backlog of displaced.
2. The problem is with the expansive interpretation that has been given to the doctrine of ‘eminent domain’ by political and managerial elites. In this context, it is essential that the whole process of displacement should be democratic and rights of tribal communities to say ‘no’ to acquisition of their land and to access and manage forests and other CPRs, be recognised.
3. The new legislation, ‘The Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation And Resettlement Act, 2013, is progressive in the sense that it is the first to legally mandate rehabilitation of PAP. However, it fails to address the need for minimizing of acquisition of land and resources. This is not surprising, since the objective of the Act, which seeks to address concerns of those whose livelihoods are affected, simultaneously aims at facilitating land acquisition for industrialization and urbanization. This is in keeping with the broader liberalization policies. Such policies will result in more displacement in Central India for mining and in the Northeast for dams.
 - The 2013 Act already has a provision for safeguarding food security and states that multi-crop irrigated land will not be acquired, except as a last resort measure. Further, the State Government is to set limits on the acquisition of such land under this law. States are also required to

set a limit on the area of agricultural land that can be acquired in any given district. However, there is no mention of the need to protect tribal land and community resources. Hence, a suitable provision is required to be incorporated in the Act, to safeguard tribal land and community resources in Scheduled Areas and disallow acquisition by a non-tribal, including private companies.

- The definition of ‘public purpose’ in the new law is very wide and will only lead to greater acquisition and displacement in Scheduled Areas. The exercise of ‘eminent domain’ and definition of ‘public purpose’ should be severely limited.
 - Government agencies acquiring land with the ultimate purpose to transfer it to private companies for stated public purpose, should be kept outside the ambit of the new law, as the Public-Private Partnership mode of acquiring land is simply a backdoor method of alienating land in violation of the Constitutional provision to prohibit or restrict transfer of tribal land to non-tribals in Scheduled Areas.
 - It is recommended that, as directed in the landmark Samatha judgment and the PESA Act, every Gram Sabha should have the power to prevent alienation of tribal land and further that minerals should be exploited by tribal people themselves. The stringent provisions of the amended Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, should be adopted by other States, particularly the provision that facilitates the formation of Registered Scheduled Tribe Co-operative Societies, which could take up mining activities in Scheduled Areas. By doing so, the Samantha Judgment would hold good for all States with Scheduled Areas. It should be the responsibility of the State to facilitate the formation of cooperatives of tribal people for the above purpose.
 - Gram Sabha consent should be mandatory for acquisition of land by the Government for its own use as well.
 - The Act does not have a provision to the effect that exploitation of natural resources in Scheduled Areas must be with the consent of the Gram Sabha. This should be rectified.
4. In the interest of weaker sections such as tribal communities, the threshold should be kept very low and R&R provisions of the new law should apply to all cases.
5. There is plenty of unutilized tribal land available with Central/State/PSUs, and Central/State Governments which is not being used for the purpose for which it was acquired. Governments should be legally mandated to return such land to the original landowner/successors or use the same for

resettlement of displaced tribals. This should not be left to the discretion of the State Government. One example of this is of HEC, Hatia, Ranchi, where excess tribal land had been acquired and people are agitating for the return of the land, but the State wishes to utilize it for other purposes. In such cases, land should be returned to the original displaced families.

The Vijay Kelkar Committee on Fiscal Consolidation (2012) said, *“Over the next 24-36 months, there is yet another policy instrument for raising resources for development and that is monetizing the government’s unutilized and under-utilized land resources. These resources can finance infrastructure needs, particularly in urban areas. Such a policy has been effectively utilized in many countries including USA, France, Canada, Australia and China. For monetizing land resources, the potential is considerable given the under-utilized prime lands of PSUs, Port Trusts, Railways, etc. Toward this, we recommend setting up of a group to work out the policy framework and institutional modalities.”*⁴²³

The suggestion of the Vijay Kelkar Committee on Fiscal Consolidation (2012) that “unutilized and under-utilized land resources” be used for “raising resources” to “finance infrastructure needs particularly in urban areas” is against the purpose and intent of the land acquisition law and should be roundly rejected, and unused land should be returned to the loser of the land and to the community.

6. There has been inadequate recognition at the policy level that land represents an inalienable resource, passed on from generation to generation in tribal communities, who otherwise have no education and skill development. Studies have documented that those DPs who got jobs in lieu of land and whose children did not receive education or training were worse off after the job-holder retired from service. It is recommended that the objective of R&R should be to ensure that the socio-economic status of tribal DPs/PAPs after displacement, should improve positively rather than deteriorate further. Loss of land and CPR can be compensated only by proper R&R which envisages restoration of livelihoods, health and education facilities and skill development for the whole family and community of tribal DPs/PAPs. There should be provision of ‘land for land’, in acquisition of tribal lands. Compensatory land provided must be made cultivable with irrigation and agricultural inputs. Rehabilitation should be treated as a continuous process to be monitored by the Project Authority and State until the alternative livelihood becomes economically viable. They must be given a stake in the assets and economic activities being created on their acquired land and CPRs (for example, land in command area, irrigation of tribal land in the vicinity,

⁴²³ Report available at http://finmin.nic.in/reports/Kelkar_Committee_Report.pdf

jobs in industries, or shops/jobs in industrial projects/townships). An expanding economy, particularly expanding labour-intensive manufacturing sector together with adequate emphasis on health, education and skill development, hold the key to humane R&R.

7. The 2013 Act is weak in matters relating to skill development and provision for livelihood for DPs/PAPs. During a meeting between the HLC and representatives of displaced tribal people in Bastar, Chhattisgarh, anger was expressed at the non-fulfillment of promises to give jobs to the educated displaced persons. They were unhappy with the cash allowance being given in lieu of jobs. The official response, that there were not enough jobs to accommodate all displaced people, did not satisfy the aggrieved parties. A sum of two thousand rupees per month per family as annuity for 20 years, with appropriate index for inflation in lieu of jobs, as stipulated in the new Act, is too low. Clearly, more has to be done for skill development and creation of alternative livelihoods. One of the ways to ensure that jobs are provided to displaced people, including tribal families, is to create a State level/National-level Virtual Employment Exchange with complete data of age, sex, educational qualifications, and skill-set of persons displaced in the past, present and in near future, for providing them employment and/or preparing them for employment/self-employment. Global best practices could be studied for providing alternative livelihoods, which could include imaginative self-employment schemes with backward and forward linkages to be provided by Project Authorities.
8. Research studies stress that gross undervaluation of losses, replacement value of loss and costs of resettlement, has led to inadequate financing of R&R and externalization of costs of R&R to the displaced and the future generations. The new law has expanded the definition of 'displaced' to include project-affected persons; however, care has to be taken to ensure that all genuine cases are included and compensation is properly computed.
 - In computing losses, it has to be recognized that there are instances of tribal DPs who do not have documents to support their genuine claim but who base their ownership rights on oral tradition. Such claims should not be rejected.
 - Forest rights have been covered under the Forest Rights Act, but other CPRs such as Government land and Panchayat land has not been covered by any legislation. This needs to be rectified. Moreover, survey by Government is incomplete – as a consequence, community land is recorded as Government land and tribal communities, primarily tribes who practice shifting cultivation on such land, are denied

compensation. This problem needs to be addressed by measures to include such cases under R&R provision.

- Women require special consideration and affirmative action. Widows and unmarried adult daughters should be recognized as a separate unit.
 - The principle for working out land compensation has been spelt out. For all other assets, compensation should be based on replacement value or net present value of assets lost/destroyed.
 - While preparing the project cost estimates, the full cost for R&R should be included, and no attempt should be made to reduce costs for a favourable cost-benefit ratio.
 - The rehabilitation package and process should take into account, the cultural displacement, and loss of customs and tradition. For tribal people, their strength is their community, and therefore, it is imperative that they be resettled and rehabilitated as a community, if they so desire.
 - Infrastructural amenities to be provided in the resettlement area have been mentioned in the new law, but provision of banking facilities has been missed out. With primary emphasis on monetary compensation, it is essential that displaced tribals, who may not have experience in handling money and understanding of the monetary economy, should be advised on handling their cash compensation. Banking facilities should be made available for keeping their money safe and credit facilities should be provided by the State (to avoid exploitation by money-lenders).
9. Land and water sources polluted by industrial and mining projects in tribal regions require attention and the onus for taking corrective measures should be on the Project Authorities. The schemes of the Government could be utilized to treat polluted land and water resources of tribal people.
10. The role of the Governor is crucial for protecting land, community assets, culture and traditional institutions of tribal people and to ensure that they are treated fairly. This role extends to ensuring socio-economic reconstitution of tribal DPs/PAPs. This raises the issue of suitability of persons who occupy the important position of Governor and other offices, such as Commissioners, Deputy Commissioners and District Magistrates, in Scheduled Areas. It is imperative that the antecedents and experience of persons be taken into consideration by the Government to check whether they can protect the interest of tribal communities and are suitable for such appointments, in view of the special role assigned to them in such States.

11. Implementation of the new law will be difficult in the absence of resettlement and rehabilitation capacities in the local administration, local community and corporate entities. It is essential that the State and corporate sector create such capacity by introducing professional training and orientation courses for following the best R&R practices worldwide and replicating them in the Indian situation. Offering tribal people monetary compensation and making promises without attendant capacity to deliver on them will not resolve the impasse that has brought land acquisition to a standstill. Sporadic attempts by instruments of the State to use force to acquire land is unethical and unacceptable. Only a genuine and bonafide effort at comprehensive and pragmatic R&R can persuade tribal people to part with their land.
12. The new legislation lays considerable emphasis on consultation and consent of Gram Sabhas. It is essential that the State be vigilant through adequate monitoring mechanisms for ensuring that consent is obtained freely and every displaced person gets adequate and comprehensive R&R in lieu of land/livelihoods lost. The State must put in place a system to collect disaggregated data of DPs/PAPs for all social groups. Oversight mechanisms must be created at the District, State and Central levels, comprising officials and non-officials with proven competence, integrity and commitment to public good. There is a view that, though the new legislation has been enacted by the Centre, R&R is a State subject, which should continue. However, the Centre has a responsibility along with the states to ensure comprehensive R&R. The Central Government should decide on the monitoring mechanism to be put in place. One possibility is to establish an Authority/nodal agency with a multidisciplinary team under the Ministry of Land Resources.
13. In view of the large-scale discontent among displaced tribal people regarding poor R&R, a High-Level Fact-finding Committee/Enquiry Committee should be set up to investigate the quality of R&R in all medium and major development projects undertaken in the last fifty years in Scheduled Areas and tribal-dominated districts of States without Scheduled Areas. This Committee should be mandated to suggest ways and means to deliver justice to the displaced families, who have not received any proper rehabilitation. This is essential, in view of the fact that, the new law has not taken cognizance of the backlog of displaced people, a majority of whom are tribal people.
14. Myriad grassroot movements against exploitation of tribal people and other weaker sections hold the key to greater socio-economic justice. It would be

desirable if the State recognizes this and engages with democratic grassroots movements, instead of crushing these movements.

15. Tribal people who have been displaced by conflict in Chhattisgarh and the Northeast should be rehabilitated by the State Government in their villages and provided facilities of housing, safe drinking water, health and education, skill development, electricity supply, irrigation facilities, and agricultural inputs. It is for the State to take preventive action and ensure safety and prevent tribal land alienation in such areas. During a visit of HLC to Assam, civil society groups and representatives of Autonomous Tribal Councils emphasized that influx of outsiders was a real threat to the tribal communities. They also alleged that inter-tribal conflict was being instigated by outsiders. It is the responsibility of the State Government to take measures to prevent such conflicts.
16. Under the 'Coal Bearing Areas (Acquisition and Development) Act, 1957, pattas/legal titles for houses allotted in resettlement sites are not issued to the displaced. As a result, the displaced lose their identity and are unable to access public facilities provided by the local administration, thereby facing difficulty in obtaining Caste/Tribe certificates. Further, there is no provision for payment of compensation before taking possession of land. The provision for returning land to original landholders post-mining is rarely complied with. Clearly, there is a need to make amendments in the Act.
17. Development projects have opened up tribal areas leading to influx of people from outside the tribal region, seeking employment in various sectors. All this has resulted in increasing urbanization of tribal areas and immigrants, rather than tribals, have benefited from this. Consequently, the percentage of tribal population in some Scheduled Areas has declined, although historically, these areas were almost exclusively occupied by tribal people. Hence, it is recommended that there should be no reduction in the areas declared to be Scheduled Areas as this will harm the interests of already deprived tribal communities by diminishing their space and their resources. Rather, the representation of tribal communities should be enhanced and strengthened in the politico-administrative institutions within Scheduled Areas.
18. Tribal people suffer predominantly from the phenomenon of poverty-induced migration, also known as forced migration. An analysis of the Census data shows that there has been an occupational change and the number of tribal cultivators has reduced while the number of tribal marginal

workers has increased. Micro studies indicate the increase in seasonal/circulatory migration of tribal workers, which may help them to avoid starvation, but is not enough to improve their standard of living. Hence, it is recommended that:

- The Census and National Sample Surveys should gather data on the phenomena of seasonal/circulatory migration, migration of children across social groups and poverty-induced migration.
- Priority should be given to STs in settlement of ceiling surplus land and wasteland, investments to improve agriculture, support for high value horticulture, employment opportunities in rural areas, access to credit facilities and skill-development to rural youth for employment in labour-intensive manufacturing sector.
- Complaints have been received that, due to seasonal migration of tribal people, they are not enumerated in the Census and therefore, Census data is not a true reflection of tribal population. This grievance requires to be redressed.
- Apathy and incapacity of the State to implement the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, has led to exploitation of tribal migrant families. In particular, tribal women and children suffer greatly. There is a growing demand for enactment of a comprehensive Migrants Rights Legislation, which deserves serious consideration.

19. Recommendations for measures to prevent illegal land alienation of tribal land are as follows:

- In pursuance of the PESA, 1996, Land Transfer Regulations/Tenancy laws of all Schedule V Areas should be suitably amended to ensure Gram Sabha participation in the identification, investigation and restoration of lands to tribal people. Gram Sabhas require to be strengthened by State Governments to undertake these responsibilities.
- Plenary powers could be given to Gram Sabhas to fight cases of tribal land alienation collectively, as an individual tribal cannot afford to face prolonged legal battles, given their socio-economic conditions.
- The Gram Sabha should be empowered to restore the alienated land on detection, pending the long legal battle, in order to potentially discourage a prospective non-tribal buyer of land in Scheduled Areas. This needs to be legally examined.

- Care has to be taken to ensure that District Councils and State-level Council do not have powers to dissolve Gram Sabhas or to dilute the powers and functions of the Gram Sabha
- Legal loopholes and ambiguities in all Scheduled Area Land Regulations and Tenancy laws should be removed. For example, such a removal must ensure that tribal land is not transferred for purposes such as settlement of refugees, housing, etc.
- There is a provision in the Andhra Pradesh Act, wherein immovable property of tribals can be mortgaged to banks and, in case of default, the property to be sold back only to tribal people or tribal cooperative societies exclusively formed by tribal people. This provision needs to be evaluated to explore replication in other Scheduled Area States. There is an urgency in doing so to meet the financial needs of tribal youth.
- There is a presumption clause in the Andhra Pradesh Act that, until the contrary is proved, any immovable property in the Scheduled Areas and in possession of a person who is not a member of a Scheduled Tribe shall be presumed to have been acquired by the person or his predecessors through a transfer made to him by a member of a Scheduled Tribe. This clause should be examined by other States for adoption and inclusion in their laws.
- Suitable amendments should be made in all land laws for protection of tribal land in Scheduled Area States to the effect that there should not be any time limit for restoring tribal land.
- Suitable provision should be made in land laws so as to bring all benami transfers, transfers in the names of concubines, tribal servants or others into the purview to prevent fraudulent land transfer in Scheduled Areas.
- The move to notify rural areas as urban areas in order to nullify PESA provisions should be stopped forthwith. Use of Master Plan in urban areas to alienate/displace tribal people from their land should be curbed.
- Increased investment is required to be made by State Governments to provide legal aid to tribal petitioners so that they are in a position to hire competent lawyers to fight cases. The Government must also provide legal training, literacy and awareness programs for youth and women on State and customary laws contextualized with modernity processes, with the participation of NGOs.
- Ultimately, it is the duty of State Governments, to ensure that all officials and lower-level functionaries do not connive in defrauding tribal people of their land. Regular monitoring at the

State and Central levels of disposal of cases and proactive efforts for restoration of tribal land is required. It is the responsibility of the State to address the problem of contradictory judicial pronouncements that jeopardize implementation of protective land laws by removing ambiguities in all relevant laws.

Legal and Constitutional Issues

1. The past twenty years have been dramatic in terms of the changes in the economy, and in the effect that economic policy has had on tribal communities. This has also been the period when laws, notably the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, have been enacted which recognize autonomy and rights of tribal communities.
2. The implementation of these laws is, however, sputtering and reluctant. The FRA framework includes provisions for: (i) recognition and vesting of rights (towards a secure tenure and livelihood/food security of the Scheduled Tribes and Other traditional forest dwellers), (ii) protection of the rights till the recognition and vesting process is completed, and (iii) control over forests of the local community and the Gram Sabhas. This framework, however, is missing from the process adopted for implementation of the law and the implementation structure does not have the necessary mechanisms and the vision to realize the objectives of the law. What is needed foremost is to strengthen the institutional system to support the process of implementation, including strengthening of the Gram Sabhas and FRCs, streamlining functioning of the sub-divisional and district level committees, strengthening the functioning of the state level monitoring committees and a dedicated structure within the nodal ministry (Ministry Of Tribal Affairs).
3. The implementation of the community forest rights has hardly taken off. It needs to have a clear mechanism and plan for recognition of various community forest rights and rights of vulnerable communities such as PVTGs and pastoralist communities.
4. The implementation of the protective provisions in the law and the process of recognition and assertion of forest rights is so far largely affected (obstructed) by contradictory processes like: diversion of forest land which, among other things, is displacing Scheduled Tribes/OTFDs and alienating their rights, displacement from the protected areas and Tiger Reserves, and displacement

due to intervention by the Forest Department through forceful plantation in the forest lands. While the protective clause under FRA is meant to prevent such cases of violation of forest rights, the implementation process has almost entirely ignored the protective parts of the law.

5. The democratic structure in forests with the Gram Sabhas as laid out in the FRA faces great resistance from the current forest regime and the various forestry institutions and programs implemented by the Forest Department and the MoEF. In the Joint Forest Management program, for instance, the operation of working plans are found to be obstructing the process of assertion of rights by the Gram Sabhas. It is necessary to remodel the entire structure of forest administration, the Forest Department, the MoEF and its programs to complement and enable the control and management of forests by Gram Sabhas and local communities.
6. The changed paradigm has not yet permeated administration, and projects and plans continue to approach forests as the exclusive domain of the state. This is resulting in multiple ways and situations in which the laws are subverted, and the rights of tribal communities denied. The exception to linear projects and the decisions of the Cabinet Committee on Investment illustrate the point. Such deliberate flouting of the law currently has no penalties attaching to it. Such penalties that will deter the breaching of the FRA need to be introduced.
7. The FRA mandates the representation of women in Gram Sabha and in the other tiers prescribed by the law. Effective participation has, however, been elusive. Given the close relationship between forests, forest produce and women's lives, there is work to be done to turn this around.
8. The difference between states of poverty and of vulnerability has been explored in the context of PVTGs. Access to resources in forests makes a difference in the extent of their vulnerability. Where there has been a depletion of forest cover, and the emphasis is on timber trees, the effect is to add to the vulnerability of PVTGs. Where, on the other hand, the resources are safeguarded and the community has access, the ability to prevent nutritional distress can be augmented.
9. Displacement for creating Tiger Reserves and Elephant Corridors take away from the provisions that recognize that tribals need to be asked to be displaced only if co-existence is impossible and with Gram Sabha consent. The resettlement experience of those displaced speaks to continued marginalization of affected communities. This is a common tale, and that is the way it has

largely been through the years. Even where the decision to displace is taken reasonably and according to the process prescribed, the inability displayed in effecting rehabilitation has to be acknowledged. There is an urgent need to review the ability of administrators who are responsible for rehabilitation, and for revising the rehabilitation process. Failed rehabilitation has consequences that have been ignored for far too long.

10. The import of PESA has not been internalized into administrative practice, and government officials including Forest Departments continue to deny access to tribals to that which is their right. Bureaucracies and judicial institutions need to be introduced to the changes that PESA has brought into administration and control in Fifth Schedule areas.
11. An exercise to bring rules made by state governments in conformity with PESA needs to be undertaken.
12. Government officials who were the agencies to prevent tribal loss of land are increasingly being seen to be negotiators on behalf of project authorities. This is a very disturbing trend, where the very authority who had been tasked with preventing land alienation from a tribal to non-tribals becomes an agent for effecting such alienation. This must be stopped.
13. There have been recorded cases of Gram Sabha consent being fraudulently obtained or forged; such conduct must face penalties, and projects that proceed on the basis of consent so obtained cannot be allowed to proceed. If such consequences do not flow, there will be no incentive to refrain from such actions.
14. Given the constitutional provision in Article 243-ZC, the creation of new Nagar Palikas or the extension of those already in existence in Fifth Schedule areas and tribal areas, as defined in the provision, must be preceded by a law made by Parliament, which sets out the exceptions and modifications from the chapter on Municipalities introduced by the 74th Amendment to the Constitution.
15. The amendments proposed to PESA has an important component of prior informed consent. This is a necessary condition for the effective implementation of PESA.

16. There has been a proliferation of MoUs between states and companies that imposes responsibility on the state to facilitate various aspects of project clearances including in matters of environmental and forest clearances. Increasingly, the state undertakes to maintain law and order for the smooth execution of the project. These MoUs make the state a party to an agreement and take away the neutrality of the state. The idea such MoUs needs to be reviewed. Institutions such as the Cabinet Committee on Investment that set priorities and pursue them even where it is in direct breach of the law amounts to deliberate flouting of the law and such practices of expediency need be halted.
17. Public policy and practice must draw on the iconic experience of Niyamgiri, and the adverse lessons from the Salwa Judum.
18. The encounter of the tribal with criminal law has been one of the disturbing aspects in the past decade. Large numbers of tribals, men and women, are in jails for what are termed 'naxal offences'. There is, of course, no legal basis for terming anything a 'naxal offence'. Others are charged in areas where there is resistance and protest against projects, provoking the assessment that the criminal law is being used as a tool of the state to suppress dissent. The acquittal rate is extraordinarily high, raising doubts about the use of criminal law. Yet, the years spent in jail, multiple charges that are imposed on the tribals and the charges on tribal leadership and on supporters have become the new normal. The committee is of the view that a Judicial Commission needs to be appointed to investigate cases filed against tribals and their supporters, only this will allay the concerns that have risen about the misuse of criminal law by the state.
19. De-notified Tribes have been asking that steps be taken to remove stigma and prejudice from their lives. More specifically, the Habitual Offenders Act, which has served to continue to attach criminality to them, should be repealed. Anti-beggary laws render the talents that they possess, such as juggling and acrobatics, into punishable conduct; there are earnest demands for the repeal of these provisions in the law. Women bear the brunt of this attribution of criminality, and whole communities of women find themselves in prostitution without a choice. Complaints about police brutality including custodial rape were rife, speaking of lawlessness among the law enforcers. Such lawlessness is unacceptable and action must be taken in accordance with law.
20. The Andaman Trunk Road which the Supreme Court ordered to be closed in 2002 still continues to be open to traffic. Although there are formal directions against plying commercial traffic on the road, these have been observed only in the breach. Tourist vehicles including buses and taxis ply on this road. In

the past few years, the exploitation of Jarawas as a tourist attraction, and the sexual exploitation of the Jarawas has been recorded and reported on. The problem has however not abated. The Andaman Trunk Road will have to be closed if the Jarawas are to be protected from such unwelcome interest. DNA testing on Jarawas has been reported. Efforts to get the protocols used to ensure the consent of the indigenous population did not yield result. This becomes of especial significance in the context of the Human DNA Bill, 2012, which proposes the creation of DNA data bases. Informed consent is a necessary part of such exercises, also among the indigenous population.

21. The persistence of bonded labour, and the trafficking, in large measure, of women from tribal areas needs a concerted effort to end it. The state has to take primary responsibility to identify, release and rehabilitate bonded labour, wherever they are found.

Annexure 2

State-wise List of Districts with ST Population more than 50%

S. No.	State Name	District Name	No. of Households	Total Population	ST Population	% of ST
1	Andaman & Nicobar Islands	Nicobars	9288	36842	23681	64.3
2	Arunachal Pradesh	Kurung Kumey	15037	92076	90764	98.6
3	Arunachal Pradesh	Upper Subansiri	15869	83448	78323	93.9
4	Arunachal Pradesh	East Kameng	14508	78690	72400	92.0
5	Arunachal Pradesh	Tirap	20611	111975	98372	87.9
6	Arunachal Pradesh	Lower Subansiri	15249	83030	72911	87.8
7	Arunachal Pradesh	West Siang	21231	112274	92783	82.6
8	Arunachal Pradesh	Upper Siang	7324	35320	28468	80.6
9	Arunachal Pradesh	Anjaw	4612	21167	16451	77.7
10	Arunachal Pradesh	Dibang Valley	1952	8004	5701	71.2
11	Arunachal Pradesh	East Siang	19107	99214	69979	70.5
12	Arunachal Pradesh	Tawang	10062	49977	34811	69.7
13	Arunachal Pradesh	Papum Pare	35730	176573	117216	66.4
14	Arunachal Pradesh	West Kameng	18159	83947	46380	55.2
15	Assam	Dima Hasao	42252	214102	151843	70.9
16	Assam	Karbi Anglong	177646	956313	538738	56.3
17	Chhattisgarh	Bijapur	54757	255230	204189	80.0
18	Chhattisgarh	Narayanpur	27982	139820	108161	77.4
19	Chhattisgarh	Dakshin Bastar Dantewada	120850	533638	410255	76.9
20	Chhattisgarh	Bastar	311538	1413199	931780	65.9
21	Chhattisgarh	Jashpur	192570	851669	530378	62.3
22	Chhattisgarh	Uttar Bastar Kanker	160937	748941	414770	55.4
23	Chhattisgarh	Surguja	526049	2359886	1300628	55.1
24	Dadra & Nagar Haveli	Dadra & Nagar Haveli	76458	343709	178564	52.0
25	Gujarat	The Dangs	44699	228291	216073	94.6
26	Gujarat	Tapi	177091	807022	679320	84.2
27	Gujarat	Narmada	122174	590297	481392	81.6
28	Gujarat	Dohad	334272	2127086	1580850	74.3
29	Gujarat	Valsad	364403	1705678	902794	52.9
30	Himachal Pradesh	Lahul & Spiti	6674	31564	25707	81.4
31	Himachal Pradesh	Kinnaur	19976	84121	48746	57.9
32	Jammu & Kashmir	Kargil	18338	140802	122336	86.9
33	Jammu & Kashmir	Leh(Ladakh)	21909	133487	95857	71.8
34	Jharkhand	Khunti	103700	531885	389626	73.3
35	Jharkhand	Simdega	118288	599578	424407	70.8
36	Jharkhand	Gumla	188988	1025213	706754	68.9
37	Jharkhand	Pashchimi Singhbhum	302046	1502338	1011296	67.3
38	Jharkhand	Lohardaga	88638	461790	262734	56.9
39	Lakshadweep	Lakshadweep	11574	64473	61120	94.8
40	Madhya Pradesh	Alirajpur	123800	728999	648638	89.0
41	Madhya Pradesh	Jhabua	194157	1025048	891818	87.0
42	Madhya Pradesh	Barwani	243277	1385881	962145	69.4
43	Madhya Pradesh	Dindori	169630	704524	455789	64.7
44	Madhya Pradesh	Mandla	250146	1054905	610528	57.9
45	Madhya Pradesh	Dhar	425914	2185793	1222814	55.9

46	Maharashtra	Nandurbar	323521	1648295	1141933	69.3
47	Manipur	Tamenglong	25039	140651	134626	95.7
48	Manipur	Ukhrul	35694	183998	173606	94.4
49	Manipur	Churachandpur	49089	274143	254787	92.9
50	Manipur	Chandel	28801	144182	128280	89.0
51	Manipur	Senapati	36000	193744	154528	79.8
52	Meghalaya	West Khasi Hills	64906	383461	375097	97.8
53	Meghalaya	East Garo Hills	58328	317917	305180	96.0
54	Meghalaya	Jaintia Hills	66028	395124	376099	95.2
55	Meghalaya	South Garo Hills	24527	142334	134237	94.3
56	Meghalaya	Ribhoi	46872	258840	230081	88.9
57	Meghalaya	East Khasi Hills	164046	825922	661158	80.1
58	Meghalaya	West Garo Hills	123352	643291	474009	73.7
59	Mizoram	Champhai	25520	125745	123466	98.2
60	Mizoram	Serchhip	12622	64937	62889	96.8
61	Mizoram	Saiha	11144	56574	54642	96.6
62	Mizoram	Lawngtlai	22984	117894	112354	95.3
63	Mizoram	Lunglei	33058	161428	153533	95.1
64	Mizoram	Mamit	17731	86364	82080	95.0
65	Mizoram	Aizawl	82524	400309	373542	93.3
66	Mizoram	Kolasib	17270	83955	73609	87.7
67	Nagaland	Tuensang	36742	196596	190916	97.1
68	Nagaland	Zunheboto	27835	140757	136561	97.0
69	Nagaland	Kiphire	14771	74004	71429	96.5
70	Nagaland	Longleng	11985	50484	48615	96.3
71	Nagaland	Phek	36639	163418	157146	96.2
72	Nagaland	Mon	41978	250260	238285	95.2
73	Nagaland	Wokha	31891	166343	156621	94.2
74	Nagaland	Mokokchung	42690	194622	178431	91.7
75	Nagaland	Peren	18475	95219	84242	88.5
76	Nagaland	Kohima	54391	267988	224738	83.9
77	Nagaland	Dimapur	78605	378811	223989	59.1
78	Odisha	Mayurbhanj	586253	2519738	1479576	58.7
79	Odisha	Malkangiri	137599	613192	354614	57.8
80	Odisha	Rayagada	226144	967911	541905	56.0
81	Odisha	Nabarangapur	273423	1220946	681173	55.8
82	Odisha	Gajapati	128523	577817	313714	54.3
83	Odisha	Kandhamal	172022	733110	392820	53.6
84	Odisha	Sundargarh	479109	2093437	1062349	50.7
85	Odisha	Koraput	337677	1379647	697583	50.6
86	Rajasthan	Banswara	367797	1797485	1372999	76.4
87	Rajasthan	Dungarpur	282029	1388552	983437	70.8
88	Rajasthan	Pratapgarh	178726	867848	550427	63.4
89	Sikkim	North District	8873	43709	28715	65.7
90	Tripura	Dhalai	84509	378230	210608	55.7

State-wise List of Districts with ST Population between 25% and 50%

S. No.	State Name	District Name	No of Households	Total Population	ST Population	% of ST
1	Andhra Pradesh	Khammam	754034	2797370	765565	27.4
2	Arunachal Pradesh	Lower Dibang Valley	11600	54080	25974	48.0
3	Arunachal Pradesh	Changlang	29521	148226	53878	36.3
4	Arunachal Pradesh	Lohit	30005	145726	47410	32.5
5	Assam	Dhemaji	129869	686133	325560	47.4
6	Assam	Chirang	97395	482162	178688	37.1
7	Assam	Baksa	191701	950075	331007	34.8
8	Assam	Udalguri	168717	831668	267372	32.1
9	Assam	Kokrajhar	181081	887142	278665	31.4
10	Chhattisgarh	Koriya	153274	658917	304280	46.2
11	Chhattisgarh	Korba	280073	1206640	493559	40.9
12	Chhattisgarh	Raigarh	367962	1493984	505609	33.8
13	Chhattisgarh	Jamtara	155275	791042	240489	30.4
14	Chhattisgarh	Purbi Singhbhum	476931	2293919	653923	28.5
15	Chhattisgarh	Mahasamund	248561	1032754	279896	27.1
16	Chhattisgarh	Rajnandgaon	318488	1537133	405194	26.4
17	Chhattisgarh	Dhamtari	170951	799781	207633	26.0
18	Gujarat	Navsari	295131	1329672	639659	48.1
19	Gujarat	Bharuch	333483	1551019	488194	31.5
20	Gujarat	Panch Mahals	446611	2390776	721604	30.2
21	Gujarat	Vadodara	877106	4165626	1149901	27.6
22	Himachal Pradesh	Chamba	102460	519080	135500	26.1
23	Jammu & Kashmir	Punch	90261	476835	176101	36.9
24	Jammu & Kashmir	Rajouri	130401	642415	232815	36.2
25	Jammu & Kashmir	Reasi	56689	314667	88365	28.1
26	Jharkhand	Latehar	133381	726978	331096	45.5
27	Jharkhand	Dumka	275019	1321442	571077	43.2
28	Jharkhand	Pakur	182317	900422	379054	42.1
29	Jharkhand	Ranchi	569444	2914253	1042016	35.8
30	Jharkhand	Saraikela-Kharsawan	221232	1065056	374642	35.2
31	Jharkhand	Sahibganj	227023	1150567	308343	26.8
32	Madhya Pradesh	Anuppur	170715	749237	358543	47.9
33	Madhya Pradesh	Umaria	145024	644758	300687	46.6
34	Madhya Pradesh	Shahdol	251452	1066063	476008	44.7
35	Madhya Pradesh	Betul	329832	1575362	667018	42.3
36	Madhya Pradesh	Khargone (West Nimar)	367988	1873046	730169	39.0
37	Madhya Pradesh	Seoni	314767	1379131	519856	37.7
38	Madhya Pradesh	Chhindwara	443361	2090922	769778	36.8
39	Madhya Pradesh	Khandwa (East Nimar)	266655	1310061	459122	35.0
40	Madhya Pradesh	Singrauli	243925	1178273	383994	32.6
41	Madhya Pradesh	Burhanpur	146341	757847	230095	30.4
42	Madhya Pradesh	Ratlam	296683	1455069	409865	28.2
43	Madhya Pradesh	Harda	113379	570465	159678	28.0
44	Madhya Pradesh	Sidhi	238448	1127033	313304	27.8
45	Maharashtra	Gadchiroli	250435	1072942	415306	38.7
46	Maharashtra	Dhule	408874	2050862	647315	31.6
47	Maharashtra	Nashik	1222887	6107187	1564369	25.6
48	Odisha	Kendujhar	405272	1801733	818878	45.4

49	Odisha	Debagarh	75452	312520	110400	35.3
50	Odisha	Sambalpur	249597	1041099	355261	34.1
51	Odisha	Nuapada	152210	610382	206327	33.8
52	Odisha	Jharsuguda	136061	579505	176758	30.5
53	Odisha	Kalahandi	401251	1576869	449456	28.5
54	Rajasthan	Udaipur	623531	3068420	1525289	49.7
55	Rajasthan	Sirohi	201785	1036346	292470	28.2
56	Rajasthan	Dausa	292502	1634409	433344	26.5
57	Sikkim	West District	28023	136435	57817	42.4
58	Sikkim	South District	30543	146850	41392	28.2
59	Sikkim	East District	61567	283583	78436	27.7
60	Tripura	South Tripura	208127	876001	344835	39.4
61	Tripura	North Tripura	152355	693947	179426	25.9
62	Tripura	West Tripura	410565	1725739	431944	25.0

Annexure 3

The details of representation of Scheduled Tribes (group-wise) in the Public Sector Banks, Financial Institutions and Insurance Companies as on 31-12-2012 (Tables 1-4), as per the information provided by the Department of Financial Services, Ministry of Finance, Government of India.

Table 1: Representation for Scheduled Tribes for Group A & B (Officers)

Name of the Bank, Financial Institutions and Insurance Companies	Number of Employees		Percentage
	Total	Scheduled Tribes	
Allahabad Bank	11535	853	7.39
Andhra Bank	8540	617	7.22
Bank of Baroda	16884	1206	7.14
Bank of India	17303	1250	7.22
Bank of Maharashtra	5041	353	7.00
Canara Bank	17907	1205	6.73
Central Bank of India	13433	790	5.88
Corporation Bank	6538	357	5.46
Dena Bank	4650	455	9.78
Indian Bank	8137	523	6.42
Indian Overseas Bank	11817	930	7.87
Oriental Bank of Commerce	9933	521	5.24
Punjab National Bank	23484	1427	6.08
P&S Bank	6039	287	4.75
Syndicate Bank	10555	772	7.31
Union Bank	16212	1072	6.61
United Bank	6636	490	7.38
UCO Bank	10184	691	6.78
Vijaya Bank	5640	362	6.42
State Bank of India	81427	5338	6.55
State Bank of Bikaner & Jaipur	5418	509	9.39
State Bank of Patiala	5820	215	3.69
State Bank of Hyderabad	7208	463	6.42
State Bank of Mysore	3705	256	6.91
State Bank of Travancore	244	9	3.69
IDBI	13247	529	3.99
RBI	7058	503	7.13
NABARD	2852	226	7.92
SIDBI	895	56	6.26
Exim Bank	287	19	6.62
NHB	94	3	3.19
IIFCL	51	2	3.92
LIC	53686	3781	7.04
GIC	331	16	4.83
NIACL	8659	463	5.35
NICL	7061	360	5.09
OICL	6481	368	5.68
UIICL	7315	363	4.96

AICL	213	20	9.39
Total	422520	27660	6.55

Table 2: Representation for Scheduled Tribes for Group C (Clerks)

Name of the Bank	Number of Employment		Percentage
	Total	Scheduled Tribes	
Allahabad Bank	7003	353	5.04
Andhra Bank	4886	320	6.55
Bank of Baroda	17081	1212	7.09
Bank of India	17795	1762	9.90
Bank of Maharashtra	6166	421	6.83
Canara Bank	16670	998	5.99
Central Bank of India	14014	1157	8.26
Corporation Bank	5965	338	5.67
Dena Bank	4399	saz	12.09
Indian Bank	8745	340	3.89
Indian Overseas Bank	11715	571	4.87
Oriental Bank of Commerce	5683	251	4.42
Punjab National Bank	24059	1044	4.34
P&S Bank	1724	40	2.32
Syndicate Bank	10173	595	5.85
Union Bank		--	
United Bank	9815	55S	5.65
UCO Bank	6368	401	6.29
Vijaya Bank	8841	502	5.68
State Bank of India	3882	178	4.58
State Bank of Bikaner & Jaipur	93053	8987	9.66
State Bank of Patiala	4601	466	10.13
State Bank of Hyderabad	5685	72	1.27
State Bank of Mysore	5782	371	6.42
State Bank of Travancore	4960	233	4.69
IDBI	21	-	--
RBI	1285	39	3.03
NABARD	3199	351	10.97
SIDBI	713	56	7.85
Exim Bank	94	7	7.45
NHB	Exim Bank has no Employees in Clerical cadre		
IIFCL	-	-	
LIC	-	-	
GIC	57537	4474	7.77
NIACL	107	11	10.28
NICL	8221	680	8.27
OICL	6468	461	7.13
UIICL	6023	498	8.27
AICL	7256	5p	7.04
Allahabad Bank	23	4	17.39
Total	390012	28791	7.38

Table 3: Representation for Scheduled Tribes for Group D (Excluding Safai Karamchari)

Name of the Bank	Number of Employees		Percentage
	Total	Scheduled Tribes	
Allahabad Bank	2064	113	5.47
Andhra Bank	3011	204	6.77
Bank of Baroda	7119	653	9.17
Bank of India	5543	534	9.63
Bank of Maharashtra	2545	244	9.59
Canara Bank	7311	310	4.24
Central Bank of India	5379	488	9.07
Corporation Bank	3036	203	6.69
Dena Bank	1831	273	14.91
Indian Bank	2190	86	3.93
Indian Overseas Bank	4500	169	3.75
Oriental Bank of Commerce	3413	221	6.47
Punjab National Bank	9192	563	6.12
P&S Bank	991	33	3.33
Syndicate Bank	3783	266	7.03
Union Bank	4104	342	8.33
United Bank	3120	138	4.42
UCO Bank	2869	143	4.98
Vijaya Bank	2192	160	7.29
State Bank of India	33467	2554	7.63
State Bank of Bikaner & Jaipur	2271	246	10.83
State Bank of Patiala	3158	59	1.87
State Bank of Hyderabad	2310	133	5.76
State Bank of Mysore	2128	139	6.53
State Bank of Travancore	56	3	5.36
IDBI	837	63	7.53
RBI	4162	454	10.91
NABARD	828	103	12.44
SIDBI	70	14	20.00
Exim Bank	4	--	---
NHB	--	--	--
IIFCL	1	--	--
LIC	5942	293	4.93
GIC	28	1	3.57
NIACL	1304	127	9.74
NICL	1108	87	7.85
OICL	1338	36	2.69
UIICL	2104	141	6.70
AICL	4	--	--
Total	135313	9596	7.09

Table 4: Representation for Scheduled Tribes for Group D (Safai Karamchari)

Name of the Bank	Number of Employees		Percentage
	Total	Scheduled Tribes	
Allahabad Bank	2285	123	5.38
Andhra Bank	1727	131	7.58
Bank of Baroda	1068	98	9.18
Bank of India	2426	280	11.54
Bank of Maharashtra	1402	86	6.13
Canara Bank	1473	72	4.89
Central Bank of India	2414	183	7.58
Corporation Bank	--	--	--
Dena Bank	321	32	9.96
Indian Bank	710	22	3.09
Indian Overseas Bank	--	--	--
Oriental Bank of Commerce	2	1	50
Punjab National Bank	4626	194	4.19
P&S Bank	814	9	1.10
Syndicate Bank	2098	103	4.91
Union Bank	1942	191	9.83
United Bank	1364	57	4.18
UCO Bank	1676	56	3.34
Vijaya Bank	526	40	7.60
State Bank of India	4411	340	7.71
State Bank of Bikaner & Jaipur	767	17	2.22
State Bank of Patiala	741	8	1.08
State Bank of Hyderabad	1436	89	6.19
State Bank of Mysore	--	--	--
State Bank of Travancore	3	--	--
IDBI	239	18	7.53
RBI	914	100	10.94
NABARD	--	--	--
SIDBI	3	--	--
Exim Bank	Exim Bank has no Employees in this cadre		
NHB	--	--	--
IIFCL	--	--	--
LIC	857	47	5.48
GIC	--	--	--
NIACL	723	48	6.64
NICL	744	44	5.91
OICL	726	125	17.22
UIICL	90	4	4.44
AICL	3	--	--
Total	38533	2518	6.53

Nutritional Value of Foods

Grains(Per 100 gram)	Protein (gram)	Calories per Kcal	Calcium (mg)	Iron (mg)
Finger millet/Ragi (Madia)	7.3	328	344	3.9
Wheat(gehu)	12.8	346	41	5.3
Maize(Makka)	11.1	342	10	2.3
Sorghum(Juar)	10.4	349	25	5.8
Pearl Millet(Bajra)	11.6	361	42	8
Italian Millet(Kang)	12.3	331	31	12.9
Samai(Sava)	6.2	307	20	5
Kodo Millet(kodo)	8.3	309	27	5.2
Little Millet(Kutki)	7.7	341	17	5.2
Dhan	6.8	345	10	3.2 (when cut by hand); 0.7 (mill processed)
Amaranth Seed (Rajgira)	16.5	364	223	17.6
Barley (Jau)	11.5	336	26	1.67
Paddy(Baas Beej)	13.1	367	37	6.4

Pulses and legumes (Per 100 gram)	Protein (gram)	Cal per Kcal	Vitamin (mg)	Potassium (mg)
Hirva	22	321	71	762
Tivra	28.2	345	120	644
Black Gram (Urid)	24	347	38	800
Semi (Field Bean)	24.9	347		
Red Gram (Arhar)	22.3	335	132	1104
Bengalgram Whole (Chana/Sabut)	17.1	360	189	808
Pink Lentil (Masoor)	25.1	342	270	629
Peas (Matar)	19.7	315	39	725
Cow Pea (Barbatti)	24.1	323	12	1131
Greengram (Moong dal)	24.5	334	94	1150
Green Peas (Hari matar)	7.2	93	83	79
Soya Bean	43.2	432	426	-
Rough Green lentil (Kacchi hari Arhar)	9.8	116	469	463
Bengal gram Dal (Chana Dal)	20.8	372	129	720

Seeds (Per 100 gram)	Protein (gram)	Cal per Kcal	Iron (mg)	Calcium (mg)
Coconut (Nariyal)	6.8	662	2.7	400
Sesame Seed (Til)	18.3	563	10.5	1450
Groundnut (Moongphali)	26.1	567	2.8	90
Flax Seed (Alsi)	20.3	530	2.7	170
Mustard (Sarso)	20	541	17.9	490
Niger Seed (Ramtil)	23.9	515	56.6	300
Ceylon Oak (Kusum/bare)	13.5	356		236
Soya Bean	43.2	432	10.4	240

Roots and tubers (Per 100 gram)	Cal per mg	Micro Iron	Vitamin A (g)	Vitamin C (mg)
Carrot (Gajar)	48	1.03	6460	3
Lotus Plant (Kamal Ka Jhad)	53			22
Colacassia (Arvi/kochai)	97	0.42		
Onion (Pyaaaj)	50	0.6		11
Potato (alu)	97	0.48	24	17
Radish (Muli)	17		3	15
Sweet Potato (Shakarkand)	120	0.21	6	24
Golden Eye Grass (Kaali Musli)	123			
Yam (Jimi Kanda)	111	1.19	78	

Source: Jan Swasthya Sahyog

Staffing Pattern of ITDA, Paderu, Andhra Pradesh

Project Officer

- Assistant Project Officer (General)
 - o Administration
 - Administrative Officer
 - Manager & other staff
 - o Accounts
 - Assistant Accounts Officer
 - Accounts Manager & other staff
 - o Monitoring
 - Deputy Statistical Officer
 - Data Processing Officer & other Computer Operators
 - o Horticulture
 - Project Horticulture Officer
 - Horticulture Officers, Sub Assts. & Technical Assts.
 - o Agriculture
 - Project Agriculture Officer
 - Assistant Directors of Agriculture
 - Agriculture Officers, Agrl.Extension Officers.
 - o Coffee
 - Assistant Dt.Director (Coffee)
 - Coffee Sub Assts.
 - o Tribal Welfare Engineering
 - Executive Engineer(Tribal Welfare)
 - Head Draftsmen/ Superintendent& other clerical staff
 - Deputy Executive Engineers & Assistant Executive Engineers
 - o Education
 - Deputy Director(Tribal Welfare)
 - Superintendent & other clerical staff
 - Assistant Tribal Welfare Officers & Hostel Welfare Officers
 - District Educational Officer (Agency)
 - Mandal Educational Officers
 - Mandal Resource Persons &Community Resource Persons
 - o Medical & Health
 - Additional District Medical & Health Officer (Tribal)
 - Superintendent & other clerical staff

- Senior Public Health Officers, Medical Officers & other health officials
 - Dist.Malaria Officer
- Particularly Vulnerable Tribal Groups Development
 - o Assistant Project Officer (PVTG)

In addition to the above staff, there are other staff under line department's viz. Education, Medical & Health, Malaria, Engineering, Indira Kranthi Padhakam, MGNREGA etc., as follows.

- Engineering
 - o Panchayat Raj Engineering
 - Head Draftsmen/ Supdt. & other clerical staff
 - Deputy Executive Engineer & Assistant Executive Engineers
 - o Rural Water Supply
 - Head Draftsmen/ Supdt. & other clerical staff
 - Deputy Executive Engineer & Assistant Executive Engineers
 - o Roads & Buildings
 - Head Draftsmen/ Supdt. & other clerical staff
 - Deputy Executive Engineer & Assistant Executive Engineers
 - o Spl.Minor Irrigation
 - Head Draftsmen/ Supdt. & other clerical staff
 - Deputy Executive Engineer & Assistant Executive Engineers
 - o Housing
 - Head Draftsmen/ Supdt. & other clerical staff
 - Deputy Engineer & Assistant Engineer
 - o Indira Kranthi Padhakam
 - Additional Project Director
 - Area Coordinators
 - Assistant Project Managers
 - District Project Managers
 - Community Coordinator s and Administrative Assistants
- Mahatma Gandhi National Rural Employment Guarantee Act
 - o Project Director, MGNREGA
 - Assistant Project Directors of MGNREGA
 - Engineering Consultants
 - Computer Operators
- Integrated Child Development Scheme (ICDS)
 - o Child Development Project Officers
 - Supervisors

- Electricity
 - o Assistant Divisional Engineer, AP Transco
 - Assistant Engineers

- Girijan Cooperative Corporation
 - o Divisional Manager
 - Superintendent & other clerical staff
 - Sales Managers

Members of the High Level Committee

(Prof. Virginius Xaxa)
Chairman

(Dr. Kamal K. Misra)
Member

(Dr. Usha Ramanathan)
Member

(Dr. Joseph Bara)
Member

(Ms. Sunila Basant)
Member

(Dr. Abhay Bang)
Member

(Dr. Hrusikesh Panda)
Member Secretary