

Tribal Land Alienation in Andhra Pradesh

Processes, Impacts and Policy Concerns

Development projects in Andhra Pradesh are emerging as new sources of displacement in the scheduled areas. But the track record of governments regarding rehabilitation of tribals leaves a great deal to be desired. The tribals are not homogeneous as upwardly mobile sections have already emerged. Recent research suggests a trend towards livelihood diversification. This paper argues that tribal development strategies need to go beyond land-based livelihoods and aim at emerging areas such as human capital, infrastructure, food security and employment generation. Positive discrimination has great potential but the policy still needs to be more inclusive. Empowerment of tribal women through self-help groups has shown the way in several locations.

S LAXMAN RAO, PRIYA DESHINGKAR, JOHN FARRINGTON

Andhra Pradesh is home to 33 communities officially designated as scheduled tribes (STs). They numbered 50,24,104 in the 2001 Census. The STs of Andhra Pradesh constitute 6.75 per cent of India's tribal population. Although the state's STs comprise only 6.59 per cent of the state's population, they account for the largest tribal concentration in southern India.

The scheduled areas of Andhra Pradesh, covered by the Tribal Sub-Plan (TSP) approach, are spread over 31,485 sq km in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Warangal, Khammam, Adilabad and Kurnool. This zone forms the traditional habitat of 30 tribal communities. The other three tribal groups, i.e., Lambada, Yerukala and Yanadi mostly live outside the scheduled areas.

In some districts tribal population is spread thinly and they live along with non-tribal communities. The indigenous tribes are mostly concentrated in contiguous tracts of the above districts that have been designated as scheduled areas administered by the Integrated Tribal Development Agencies (ITDAs).

There are some one million ST households in the state and about a half of them live in 5,936 villages in the nine ITDA areas. The scheduled areas are inhabited by an estimated 2.8 million tribals who are entitled to the benefits of TSP projects and protective legislations. In conformity with the national TSP strategy, Andhra Pradesh tribal population is divided into four categories: (i) Those living in tribal concentration areas in the scheduled villages and adjoining areas, i.e., the TSP areas administered by ITDAs. Each of the above nine districts has one ITDA named after the tribal concentration block where it is headquartered; (ii) primitive tribal groups, i.e., communities who live in near isolation in inaccessible habitats in and outside the scheduled areas who are at the pre-agricultural stage of the economy; (iii) those living in small pockets outside the scheduled areas, i.e., Modified Area Development Agency (MADA) areas and tribal clusters; and (iv) Dispersed Tribal Groups, i.e., those dispersed throughout the state.

Until independence, Andhra Pradesh was divided into two distinct regions ruled by two different administrative systems. The present coastal Andhra and Rayalaseema districts were part of Madras province (ruled by the British) and Telangana was a part of Hyderabad state under the Nizams. Until the formation of Andhra Pradesh in 1956, the tribal areas

of these regions were governed by two distinct administrative systems.

Colonial Period

Until the beginning of the 20th century, most tribal areas of Andhra Pradesh had remained virtually isolated. During the second-half of the 19th century, the British started an indirect rule in tribal tracts of the coastal districts through feudal intermediaries such as 'zamindars' and 'muttadars'. In Telangana region, the Nizams had similar intermediaries like 'jagirdars', 'kokhasis', 'mahaldars', etc. Intermediary systems of land tenure such as 'muttadari' and 'mahaldari' were in place in Visakhapatnam, West Godavari and Khammam districts. The estate-holders divided their estates into groups of villages and entrusted their management to influential individuals called muttadars. The non-tribals, who migrated to tribal areas, advanced money, foodgrains and clothes to tribals. Later the non-tribals employed various usurious methods of moneylending to occupy tribal lands. The non-tribals who took control of tribal land were: itinerant traders; merchants-cum-moneylenders; forest and other contractors from the plains; non-tribal farmer immigrants; and village level officials.

In the wake of tribal revolts in coastal areas, the first safeguard policy, i.e., 'Ganjam' and Visakhapatnam Districts Act was promulgated in 1839 and the tribal areas were brought under the administration of the collector. The act set the agency areas apart for all administrative purposes. The British enacted the first landmark protective legislation, i.e., the Agency Tracts Interest and Land Transfer Act, 1917 to protect the interests of tribals in the agency areas. Its main objective was to protect the tribal land from non-tribals. With the enactment of the Government of India Act 1935, the scheduled areas came under the discretionary powers of the governor.

The laissez-faire policy in Hyderabad state (now Telangana region) had also worked against the interests of aboriginal tribes. Forest officials used to harass tribals and extract bribes from them. Following instances of non-tribal encroachments and expansion of reserve forest and the resultant violent incidents in Adilabad district, a protective statute Tribal Areas Regulation (Fasli 1356) was enacted in 1946. The regulation entrusted all tribal land disputes to tribal panchayats. It prohibited sale or attachment of tribal land and empowered the officials to appoint tribal village

officers. A campaign to assign land with pattas was initiated in 1944 resulting in the distribution of 1,60,000 acres benefiting 11,198 tribal households.

Post-Independence Landmarks

Andhra Pradesh was formed in 1956 by merging the erstwhile Hyderabad and Andhra states. The new government enacted the first comprehensive legislation, Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (APSALTR 1959 or Regulation 1 of 1959) for the protection of tribal land. It came into effect in Andhra region in the same year and was extended to Telangana region through Regulation 2 in 1963. The Regulation 1 of 1959 provides that: (i) In the scheduled areas, transfer of immovable property by a member of scheduled tribe to non-tribals without permission from the competent authority shall be null and void; (ii) Where a transfer of immovable property is effected in favour of non-tribals, the designated official, on representation or suo motu may restore the property to the transferor.

However, this legislation did not bar land transfer by non-tribals. Even in the case of transfer from tribal to non-tribal, it was only restrictive and not proscriptive. Moreover, the regulation remained largely unimplemented as the working rules were not framed for almost 10 years after its passage. Land alienation in scheduled areas continued in spite of this legislation. The government began moving in this direction after the tribal uprising in Srikakulam district in the 1960s by initiating more stringent measures in the form of Regulation 1 of 1970.

The 1970 amendment prohibits transfer of immovable property in scheduled areas. It has a presumptive provision stating that *any immovable property in the agency areas in the possession of non-tribals shall be deemed to have been acquired from a scheduled tribe*. When this regulation was questioned, the high court of AP upheld the regulation with a directive that it would not have retrospective effect. Following the passage of 1 of 1970, branches of the Cooperative Land Mortgage Bank had to suspend their operations in scheduled areas. With a view to removing this hurdle, the APSALTR was further amended by Regulation 1 of 1971. Yet another amendment was effected to the above enactment in 1978 which prohibits registration of sale transactions in favour of non-tribals.

The tribal land policy took an interesting turn in 1979, following a lull in tribal tracts, when the state government directed the officials concerned not to evict non-tribals occupying up to five acres of wetland or 10 acres of dryland in scheduled areas. Predictably, the high court of AP declared the order bad in law and doubted the sagacity of the government which tried to dilute a legislative enactment through an executive order. The policy towards tribal land entered into another decisive phase in the 1990s. Attempts were made in the late 1990s and early 2000s by the reforms-oriented Telugu Desam Party regime – especially in the wake of Samata Judgment – to amend Regulation 1 of 1970 to allow land transfers between non-tribals (see section on development projects). Both state and central governments began initiatives towards amending the Fifth Schedule following the Supreme Court verdict in Samata case. However, a new policy environment began to unfold in 2004 with the Congress Party governments coming into power in the state as well as at the centre.

I

A Typology of Tribal Land Alienation

Land is the primary source of livelihood for the tribals. Land-based livelihoods have assumed added importance with the depletion of non-timber forest produce (NTFP). Land alienation in its broad sense is among the major causes of impoverishment of

tribals: Occupation by non-tribals; reduced access to forest-based livelihoods; reservation of forests and restrictions on shifting cultivation; land administration policies; and displacement by development projects. A detailed discussion of these processes is as follows.

Land Alienation to Non-Tribals

Moneylending is among the earliest routes through which tribal land has been alienated in Andhra Pradesh. Non-tribal settlers advance petty cash to tribals taking tribal land as collateral. The land would be in possession of the lender until the borrower repays the money completely. Because of income poverty most tribals default on their debts. This process of land occupation occurred on a larger scale in tribal tracts of coastal Andhra Pradesh. A study conducted in Saluru agency area of Srikakulam district found that the first outside trader entered this area about 45 years ago and began lending money at high interest rates. The debt burden could be reduced by tribals only by conceding their land. The trader acquired the first chunk of tribal land within 10 years after he had established his foothold. This process gained momentum as more and more outsiders followed suit. Resultantly only 11 per cent of households retained land [Reddy 1988].

In many tribal areas, the non-tribal men entered into marital relationships with the tribal women and purchased land in the names of tribal wives. Land alienation through polygyny has been found in Visakhapatnam, East Godavari and West Godavari districts. The tribals of north coastal Andhra Pradesh have inherited a sacred social institution called 'nestam', i.e., the bond of friendship. The idea of this bond is to promote the well-being of the members. The non-tribals entered into these bonds of friendship and purchased land in the names of their tribal friends. As members of these associations, tribals are supposed to protect the interests of their friends. In tribal tracts of East and West Godavari districts, many non-tribal farmers purchased land in the names of their tribal servants or attached labourers. Another means employed by non-tribal communities to occupy tribal land was to procure false scheduled tribe certificates. Armed with this status, the non-tribal migrants purchased tribal lands.

Survey and Settlement Processes

Even prior to independence, tribals had lost their customary rights over land due to survey and settlement processes. With a view to raising revenue from natural resources, the colonial policies introduced new systems of land administration where estates were granted to influential non-tribals without conducting proper surveys. In some areas non-tribals were encouraged to bring as much land as they could under cultivation. In the post-independence period, tribals have lost their land rights through survey and settlement operations undertaken during the transition from the intermediary system to individual-based settlement. Land deprivation occurred on a massive scale owing to the lack of proper and regular survey and settlement practices. Most of the land in scheduled areas of AP was under feudatory systems of land tenure such as samindari, jagirdari, muttadari and mahaldari. Under these systems, the tribal tenant had no security and the intermediary had the right to evict the tenant at will. With a view to conferring 'patta' rights on tribal ryots and to putting in place proper land records after due survey and settlement operations, the government of Andhra Pradesh made the following regulations:

(i) *A P Mahals (Abolition and Conversion into Ryotwari), Regulation 1 of 1969*: Provides for the abolition of Mahals in Khammam district. Every tribal ryot in possession of land continuously for a period of one year before the notified date

shall be entitled to ryotwari patta only if he is in occupation for a continuous period of eight years and such occupation is not violative of the APSALTR.

(ii) *A P Muttas (Abolition and Conversion into Ryotwari), Regulation 2 of 1969*: Apart from delineating the same provision as the above with regard to tribal cultivator, this regulation states that no non-tribal ryot is entitled to ryotwari patta unless he is in a lawful possession of the said land for a continuous period of eight years.

(iii) *A P Scheduled Areas Ryotwari Settlement, Regulation 2 of 1970*: This applies to lands other than those comprised within Muttas and Mahals. Regarding the non-tribals, this enactment also incorporates the same provision as the above.

Under the above regulations, thousands of non-tribals were granted ryotwari pattas. Although the possession of land by a non-tribal for a period of eight years is subject to APSALTR, this proviso was not understood in proper spirit by the implementing authorities. Further, the influential non-tribals managed to produce records showing that the lands were under their occupation at the time of the settlement.

Haimendorf (1979), who studied the Gonds of Adilabad district, graphically chronicles the process of land alienation resulting from survey and settlement processes. The Gonds' inability to retain their land was due to a system of land tenure far too complicated for a region with an illiterate population. The right of ownership to land had to be formally recognised by the authorities and the name of the owner (pattadar) entered in the village registers before the ownership was regarded as valid. Most Gonds used to occupy land and pay revenue to the village accountant without insisting that they should be entered in the register as pattadars. Such tenure was called 'siwa-i-jamabandi' (without revenue settlement) and majority of Gonds cultivated lands in this way. Yet, anyone whose name did not appear in the register was liable to eviction. When pressure on the land grew and Gonds had to compete with non-tribals, this system was very much to their disadvantage. Non-tribal settlers manoeuvred to get patta rights in siwa-i-jamabandi land held by Gonds on payment of a nominal sum. The Gond habit of giving up cultivation on a piece of land and occupation of vacant land of equal size on payment of the same revenue was also made use of by the immigrants. They turned the relinquished patta lands to government lands and got pattas in their own names. By the 1940s, the Gonds had already been ousted from many villages and large areas of land once held by their forefathers. The Nizam government, pursuing a policy of opening up the district and raising its revenue, encouraged the influx of new settlers and granted them pattas.

Forest Policies

Laws governing forests have also contributed to large-scale land alienation in the scheduled areas. The concept of state ownership of forests came into conflict with the traditional rights and practices of tribals. In several locations, tribals lost access to their agricultural land and commons following the demarcation of forest boundaries. In north coastal districts of AP, in particular, tribals have lost large chunks of land that they had used for 'podu' (shifting cultivation). Around 65 per cent of Andhra Pradesh forest area is spread over eight tribal districts in the northern part of the state. Historically, the relationship between tribals and the state agencies has been antagonistic which gave rise to several uprisings. The widespread commercialisation of forests during the colonial era, following the adoption of forest acts, restricted the traditional rights of tribals.

Although India has a long history of forest policy, the livelihoods of forest-dwellers have not been recognised in policy until

recently. Predominantly tribal lands have been declared as state forests. The reservation of forests has been a historical process whereby the indigenous communities are pushed deeper into forests and tribal lands are appropriated by non-tribals. The state has appropriated large tracts of land without recognising customary rights, particularly of shifting cultivation. Much of the land classified as "encroached land" in AP is actually land under customary tribal podu forest fallows management [Reddy et al 2004].

The case of Adilabad illustrates the process of alienation by forest policies. Until about 1900, the tribals of Adilabad had not been subject to any restrictions in the forest. While Kolams and Naikpods practised shifting cultivation, Gonds cultivated mainly the light soils of the hilltops, allowing long periods of fallow between periods of cultivation. When in the name of forest conservancy boundary lines were drawn round the villages where most of the land not actually under cultivation was notified as government forest. When the land Gonds had cultivated at the time of the demarcation became exhausted, and Gonds wanted to reoccupy the fallow lands, they came up against the claims of the forest department. When the forest lines were demarcated, the peculiarities of the tribal area were not taken into account. For instance, lands held by tribals under siwa-i-jamabandi were included under reserve forest. Even in villages that were put in enclosures, the forest boundary ran so close to the villages that there was hardly any space left for future growth. And in violation of the principles of reservation, many fields held by Gonds on patta were included in the reserved forest. Owing to land alienation and population pressure, tribals in many locations had started cultivating land falling under the reserve forest. In several villages, there have been conflicts between tribals and forest officials over such "encroachments".

Dispossession by Development Projects

At the national level, tribals constitute at least 55 per cent of the persons displaced by development projects such as irrigation systems, hydroelectric projects, mining operations, power generating units and mineral-based industries [Saxena 2006]. In the name of development, tribals are displaced from their traditional habitat and are deprived of their livelihoods. The track record of governments on the resettlement and rehabilitation front leaves a lot to be desired. Even according to the official estimates, only 29 per cent of the affected have been rehabilitated. In the recent past, some development projects in AP have become highly controversial due to their implications for tribal land and livelihoods.

Mining is among the largest industries in India which has become contentious in the context of enforcing the safeguards enshrined in the Fifth Schedule. The recent pronouncements by the Supreme Court, following the interventions of Samata, on mining operations in the scheduled areas have set off a nationwide debate on tribal land issues. The discourse on mining activity should be set against the backdrop of the legal initiatives taken by Samata on the basis of their work in Visakhapatnam district. Mining operations in Anantagiri area go back to the 1960s when mining leases were granted to private entities while tribals were denied title deeds to their lands.

Samata moved the high court of Andhra Pradesh in 1993 against mining permissions arguing that the leases violated the land transfer regulations and the government was also a "person" (non-tribal) and hence does not have the power to grant leases to non-tribals. The court issued a stay order; but in 1995, the stay order was vacated and the case was dismissed. After hearing a special appeal by Samata, the Supreme Court delivered its landmark verdict in 1997. The judgment *inter alia* says:

- (i) Government lands, forest lands and tribal lands in the scheduled area cannot be leased out to non-tribals or to private industries.
- (ii) Mining activity in scheduled areas can be undertaken only by the government or a society of tribals.
- (iii) It would be appropriate to bring about a national legislation on mineral wealth in tribal areas.
- (iv) At least 20 per cent of the net profits from mining operations should be set aside for developing infrastructure in mining areas.

Following the verdict in Samata case, both the state and central governments made several attempts to regain the powers vis-à-vis the mining activity in tribal areas. The government of Andhra Pradesh received a major setback when its appeal to the Supreme Court for a revision of the order was struck down. Then both the state and central governments began lobbying for an amendment to the Fifth Schedule to undo the Samata judgment.

The main electoral plank of the present Congress government in the state was according high priority to the irrigation sector. On assuming office, the Rajashekhar Reddy government identified 26 irrigation projects with an estimated cost of Rs 460 billion. Some of these projects, under various stages of implementation, have become more controversial as they will displace tribal villages and submerge forest areas. The Polavaram project is the most contested of the ongoing projects as far as the tribal livelihoods are concerned. This multipurpose mega project on the Godavari at Polavaram in West Godavari district is expected to irrigate 727,000 acres.

The project would displace 276 villages and uproot 44,574 families in three districts and tribals comprise almost 50 per cent of the population of these villages. Opposition to the project from civil society organisations, political parties and tribal rights activists is mounting as the government is going ahead with the project in haste without conducting any scientific studies on its impact and without securing the mandatory clearances from the central government. The critics are sceptical about the

resettlement and rehabilitation package for the tribals given the government's track record on this front. Meanwhile, the tribals of the project area have launched an agitation against the Polavaram project. The opponents of the project have put forward two major arguments: alternatives to Polavaram, such as minor schemes with minimum displacement, should be explored; and project work should be suspended until the rehabilitation issues, including the land for land compensation, are settled.

I Magnitude of Land Alienation to Non-Tribals

Alienation of tribal land to non-tribals has been the most widespread and visible process of dispossession in tribal tracts. Official data on the extent of tribal land alienation for different periods are available (see Tables 1-4); although the figures are not totally comparable, the data demonstrate that land alienation is on the rise despite the protective laws.

It is widely held that the official statistics do not reflect the ground reality because in many cases non-tribals are in occupation of tribal land through various means such as lease, mortgage, sharecropping and benami transactions. On top of that many non-tribals are still holding tribal land even after the decree of eviction had been passed. A closer look at Table 3 reveals that the proportion of land restored to tribals (row 12) is relatively low compared to the extent of land under the non-tribal occupation (row 2). Figures published by the ministry of rural development (GoI) show that Andhra Pradesh accounts for the highest incidence of land alienation in the country and the quantum of land in dispute in the state represents a third of the extent reported for the entire country. Studies commissioned by the ministry also reveal the massive scale of land alienation across the country. The Andhra Pradesh report reveals that non-tribals own more than half of the land in scheduled areas. The extent is 52 per cent in Khammam, 60 per cent in Adilabad and as high as 71 per cent in Warangal.

III Impacts and Implications

Loss of land has led to major changes in the livelihood pattern of tribal people. A major consequence is the growing number of agricultural labourers, an indication of the "depeasantisation" process [Murali and Rao 1992]. The census data also shows that the proportion of agricultural labourers among the STs is on the rise. Migration to both rural and urban locations has emerged as an important livelihood option in tribal areas. Many scheduled locations are in a transition from subsistence farming to commercial cropping due to reduced plot size and growing cash needs owing to widespread indebtedness. Legal battles and violent

Table 1: Extent of Land Alienation and Restoration in 1975: District-wise

District	No of Cases Detected	Area in Acres	No of Cases Land Ordered to be Restored	Area in Acres	Actual Extent of Land Restored to Tribals
Srikakulam	1369	7872	860	1870	1610
Visakhapatnam	3605	9808	2784	5508	5348
East Godavari	1019	3523	442	1119	1119
West Godavari	894	NA	190	1004	858
Adilabad	1159	9731	985	8282	7869
Mahabubnagar	120	902	18	127	127
Warangal	5094	3591	1462	2677	1368
Khammam	5944	18837	2474	6680	2465
Total	19204	54264	19203	25767	20764

Source: Danam (1977).

Table 2: Extent of Land Alienation and Restoration in 1997: District-wise

District	No of Cases Detected	Extent in Acres	No of Cases Disposed of	Extent in Acres	Cases Decided in Tribals' Favour	Extent in Acres	Cases in Which Land Restored to Tribals	Extent in Acres	Cases Pending Disposal	Extent in Acres
Srikakulam	384	987	376	936	251	523	215	523	8	51
Vizianagaram	1195	7176	1142	6973	836	5469	836	836	53	204
Visakhapatnam	6582	22490	5518	14071	4661	13310	4475	4475	1064	8419
East Godavari	6448	39959	6175	38831	2507	13165	2495	2495	173	1128
West Godavari	7077	37216	6002	33194	1389	6828	414	414	1075	4021
Khammam	26199	98283	23190	88154	10292	35304	10223	10223	3009	10129
Warangal	12403	28133	5552	13074	3328	6813	2484	2484	6851	15058
Adilabad	5763	43295	5174	40600	3068	23717	2857	2857	589	2695
Mahabubnagar	287	1878	273	1186	178	1185	168	168	14	693
Total	66338	279419	53402	237020	26551	106315	24203	97688	12836	42400

Source: Mohan Rao (1999).

confrontations between tribals and non-tribals over land alienation have become intense in recent times. This is evidenced by recent conflicts between the Koyas and the non-tribal occupiers in West Godavari district. In several parts of Adilabad district, the dispossessed Gonds have encroached upon the forest land. This has been a cause of tension between the tribals and forest officials. The traditional livelihood pattern of the Koyas of Khammam district is changing as a result of loss of customary rights. The incidence of landlessness has gone up and a majority of the landless are working as wage labourers. The non-tribal infiltration in some districts is changing the demographic composition where tribals are at risk of being reduced to a minority.

High level of indebtedness among tribals renders them vulnerable; exploitative practices by non-tribal moneylenders persist in spite of the legislations to curb these methods. The procedures followed with regard to land alienation cases are tardy and cumbersome and land administration system is too complicated for the tribals. Deep-rooted fear of government agencies and the lack of faith in bureaucracy have discouraged tribals from seeking formal interventions. Article 226 of the Constitution has been invoked by non-tribals to secure stay orders in land restoration cases. Loopholes in the law have been exploited by non-tribals, the biggest one being the absence of retrospective effect to land alienation cases.

Many non-tribals have succeeded in producing sale deeds dated before 1970 to avoid eviction. In many cases where judgments were given in favour of tribals, land could not be restored. Many tribal-majority villages are still considered as non-scheduled villages. A large number of cases were settled in favour of non-tribals following the government's controversial order in 1979. Mainstream political parties in Andhra Pradesh have had great success in co-opting tribal leadership. The STs are considered, given their low proportion in the state population, politically insignificant. Moreover, they have not organised themselves into an effective pressure group. This is evident from the relative ease with which the successive governments have managed to bring about consensus among TAC members. And non-indigenous tribes such as the Lambadas have a dominant presence in political and administrative structures.

IV Emerging Policy Environment

The policy context prevailing during the previous governments – the NDA government at the centre and the TDP government in Andhra Pradesh – was characterised by several controversial policy initiatives notably the eviction of tribals from forests and the moves to dilute the Fifth Schedule. The early 2000s, by contrast, have witnessed an intense national debate on tribal land issues. The emerging policy framework is a result of three major developments: Change in regimes in 2004 at the centre as well as in Andhra Pradesh; three national policy initiatives on tribal land undertaken by the central government; and a more participatory and consultative policy-making process initiated by the present UPA government. The policy initiatives cover three important areas of tribal land policy: A national policy on tribals; forest rights; and a national rehabilitation policy. The UPA government is currently making amendments to these policies in keeping with the commitments made in its common minimum programme (CMP).

The CMP of the UPA government provides the broad policy agenda on issues of national importance. The UPA government also constituted National Advisory Council (NAC) as an interface with civil society with regard to the implementation of the CMP. The NAC makes recommendations to the government on the policy priorities identified in the CMP. The policy interface with

the NAC provided a unique opportunity to civil society to participate in the policy-making process. The current thinking in the NAC on tribal land issues, contained in their communications to the government, offers very useful policy perspectives and suggestions (available at: www.nac.nic.in).

The Draft National Policy on Tribals announced by the NDA government attracted criticism from the NAC and several other quarters on the grounds that the draft was a disjointed document as it does not take a holistic view of tribal development and treats tribal land issues in a superficial manner, in an isolation from the related laws and constitutional provisions; and it contains some anti-tribal provisions particularly regarding shifting cultivation. The NAC had conveyed their recommendations to the government highlighting the weaknesses of the draft. The UPA government has formulated a revised draft in 2006, i.e., the National Tribal Policy incorporating the suggestions and views from civil society and its coalition partners. With regard to land alienation, the new policy states that land alienation is the single most important cause of pauperisation of tribals and proposes that the centre would study state protective laws so as to identify the loopholes and formulate a model legislation. Regarding land restoration, annual targets will be fixed for the states and the process will be monitored by a high-level empowered committee. Special fast-track courts will be established in scheduled areas to deal with land alienation cases and legal aid will be imparted to tribals and land records will be computerised. The draft policy recognises that shifting cultivation is a form of agriculture as it supports and protects collective ownership of natural resources.

Table 3: Incidence of Tribal Land Alienation and Extent of Restoration under APSALTR: State Level*
(Area in acres)

Description	1975	1995	1997	2003
1 Number of non-tribal occupations/cases filed in courts	19204	63004	66338	69119
2 Area under above	54264	260523	279419	340491
3 Number of cases in which enquiries were initiated		56544		
4 Area under above		246003		
5 Number of cases disposed of	19203	47803		59849
6 Area under above	25764	215435		256452
7 Cases rejected			23531	31737
8 Area under cases rejected			129845	150227
9 No of cases decided in favour of tribals				27461
10 Area under above				106225
11 Number of cases in which land was restored to tribals		22614	26551	23383
12 Extent of land restored to tribals	20764	91937	106315	94312
13 Number of cases pending disposal		11842	12836	7663
14 Area under above		33430	42400	31324

Note: * Compiled from: Mohan Rao (1999) and Ministry of Rural Development (GoI), *Annual Reports*. Gaps indicate non-availability of data.

Table 4: Extent of Land under Occupation of Non-Tribals in Scheduled Areas in 1996

Name of the District	Total Land in Scheduled Areas (Acres)	Land under Occupation of Non-Tribals (Acres)	Percentage
1 Srikakulam	14,949	359	2.20
2 Vizianagaram	42,333	91	0.21
3 Visakhapatnam	288,107	NA	NA
4 East Godavari	173,417	33,740	19.46
5 West Godavari	75,702	27,979	36.96
6 Khammam	771,605	407,368	52.79
7 Warangal	142,533	102,105	71.64
8 Adilabad	297,171	180,349	60.69
9 Mahabubnagar	42,392	1,444	3.41
Total	18,48,210	7,53,435	48.29

Source: Mohan Rao (1999).

The new policy environment is also characterised by a debate on the contentious issues of resettlement and rehabilitation. The National Rehabilitation Policy, announced in February 2004 by the NDA government, represents the culmination of the attempts towards a model rehabilitation policy applicable to the entire country. The rehabilitation policy states that displacement of tribal people should be kept to the minimum and undertaken only after possibilities of non-displacement and least displacement have been exhausted. When displacement becomes inevitable, the displaced should be provided a better standard of living. The policy formulated the following guidelines: each ST family having land in the earlier settlement shall be given land against land; reservation benefits enjoyed at the original settlement shall be continued at the resettlement area; additional financial assistance equivalent to nearly one and a half years' agricultural wages for the loss of customary and usufructory rights shall be given; tribals are to be resettled close to their natural habitat to help them retain their identity; if resettlement is possible only away from the district or taluka, then substantively higher benefits in monetary terms shall be given; and all basic amenities shall be provided at the rehabilitation sites.

Regarding the policy on rehabilitation, the NAC is of the opinion that non-displacing or least displacing alternatives should be explored. If the former is not possible, displacement should be based on prior informed consent of the gram sabha. Displaced families should have a standard of living better than that they had prior to the displacement. In the case of irrigation projects, allotment of land in command areas should be mandatory. Rehabilitation policy should be linked with the Land Acquisition Act (LAA) to make the latter people-oriented and consensual and "land for land" principle needs to be incorporated into the LAA. As for land acquisition for commercial undertakings, the affected families are entitled to a certain percentage of shares or profits. Employment and skills training should be provided to the affected families on a priority basis. The principles of geographical continuity, cultural homogeneity and adaptability should be adhered to in choosing resettlement sites.

The National Tribal Policy has also formulated some broad policy directions on the rehabilitation front incorporating the feedback from civil society. These principles acknowledge the tribal rights over forest resources and livelihoods and are aimed at protecting the tribal interests in a holistic way. The revised tribal policy states that the provisions of all existing laws will be amended to harmonise them with those of the PESA (see draft policy at: www.tribal.nic.in/finalcontent.pdf).

Forest Rights Bill 2005

In keeping with the new policy framework and the pro-tribal policy priorities of the CMP, the UPA government has formulated *The Scheduled Tribes (Recognition of Forest Rights) Bill, 2005* which aims to compensate the "historical injustice" done to forest-dwelling tribes and provide the adivasis rights to forest resources. The bill for the first time recognises that tribals have rights over forests. The proposed forest rights include: the right to hold and live in the forest land; community rights over forest such as 'nistar'; right of ownership access to use and dispose of minor forest produce; rights over disputed lands; rights for conversion of pattas or leases or grants on forest land into titles; rights of conversion of forest villages into revenue villages; right to manage any community forest resource; and any other traditional right enjoyed by the forest-dwelling STs. In concrete terms, the bill proposes pattas to forest lands occupied before 1980 but subject to a ceiling of 2.5 hectares per family. No tribal person is to be evicted from forest land until the process of determining rights is completed. The bill proposes wide-ranging powers for the

gram sabha that include determining the nature and extent of forest rights, regulating access to forest resources, and punishing those who violate the provisions.

Although the bill is a step in the right direction, it addresses tribal land issues in isolation from the related legislations on wildlife protection and forest conservation. Another weakness of the bill concerns the issue of displacement by development projects; the bill should clearly delineate the role of the gram sabha vis-à-vis development-induced displacement. The rights proposed to be conferred with regard to the lands occupied before 1980 are essentially compensatory in nature. Because the bill tries to compensate the loss tribals suffered without looking at the processes that have resulted in land dis-possession; nor does it refer to the failure of the state in restoring the alienated land and in providing adequate rehabilitation for the displaced. Because loss of land to non-tribals is among the major factors driving tribals to "encroach" on the forest land. The cut-off date of 1980 and the ceiling on the extent of land proposed to be regularised would drastically reduce the scope of the bill. It also excludes from its purview a large number of non-ST forest dwellers. Although the proposed legislation promises a great deal, the scepticism remains given the track record of the state in enforcing the earlier laws and the constitutional provisions.

V

Conclusion and Policy Concerns

The overall situation prevailing in AP today is one where the alienated land cannot be restored because of legal loopholes, non-retrospective land regulations, powerful outsiders and a continuing lack of political commitment to protecting tribal rights. Most non-tribals manage to hold on to their land by obtaining stay orders or producing false documents. Added to this is rampant rent-seeking among officials. Development projects are emerging as new sources of land alienation. In this context, tribal areas are used to attract private capital for exploiting mineral resources and tribals are forced to pay a far higher price in the case of irrigation projects as the lion's share of expected benefits would accrue to non-tribals. The track record of governments with respect to the resettlement and rehabilitation programmes is a classic case of too late and too little.

The tribal land problem in AP has assumed new dimensions in relation to the traditional rights over 'podu' and access to natural resources in general. The debate about shifting cultivation has been revived in the context of externally funded participatory forest management programmes such as JFM and CFM (joint/community forest management). Traditional rights and livelihood pattern of the forest-dependent tribals need to be respected while designing and implementing forest management programmes. The forest department should not evict people practising shifting cultivation without creating real alternatives for them. At present the law seems to be harder on poor tribals than it is on more powerful and corrupt agents who are more damaging to forests than podu.

Tribal land issues are currently subjects of national debate thanks to the major policy initiatives taken by the centre. With respect to land alienation to non-tribals, the recommendations made by the NAC – particularly with regard to making the land administration system more transparent, participatory, accountable and tribal-friendly – could make a positive impact on the restoration process. Lessons could be learnt from other experiments such as the work on the right to information of the Mazdoor Kisan Shakti Sangathan (MKSS) in Rajasthan. Training and capacity-building of tribals in land administration, survey and settlement and land transfer regulations will go some way towards empowering tribals. Imparting legal literacy to tribals should be

an integral part of capacity-building approach. Interventions towards legal empowerment can draw upon some innovative initiatives adopted by NGOs such as SAKTI. Other complementary reforms such as plugging the loopholes in the protective laws and strengthening the quasi-judicial machinery that enforces these acts need immediate policy attention.

The trained tribals would be able to assist the gram sabha expected to be further empowered by the proposed legislations. The gram sabha should be allowed to play a role in the adjudication of tribal land disputes. The survey and settlement process in the scheduled areas should be completed and this should recognise the customary rights to land. Customary rights need to be respected while drawing up boundaries under various forestry, wildlife and land programmes. The long overdue National Rehabilitation Policy, which is currently on the table, needs to incorporate the special concerns related to tribal livelihoods. In this context, the suggestions made by the NAC are particularly relevant. The NAC's recommendations address the serious flaws of the policy and take into account the concerns voiced by civil society. Since indebtedness is a major vulnerability, there is a clear case for strengthening and expanding institutional credit in scheduled areas. The self-help groups (SHGs) of women have great potential to meet the microcredit needs of the poor and address higher level needs and constraints. Empowerment of tribal women through SHGs has in several locations reduced the exploitation by vested interests [D'Silva et al 2004].

Tribal development strategies, while respecting customary rights and tribal values, need to go beyond land-based activities. Human capital—education and health in particular—infrastructure, employment guarantee and food security are emerging as critical factors. Positive discrimination programmes have great potential to empower the STs. But Andhra Pradesh tribals are not homogeneous; upwardly mobile sections have already emerged. Some groups, notably the non-indigenous Lambadas or Banjaras, have been able to capture the lion's share of reservational benefits often at the expense of poorer and indigenous tribes. Policy and interventions need to take a more disaggregated view of tribal communities.

The Forest Rights Bill, despite its progressive spirit, has also attracted criticism from several quarters. The original bill had several ifs and buts that would have circumscribed the rights proposed to be conferred. The bill was tabled in the Parliament on December 13, 2005; it was then referred to a Joint Parliamentary Committee (JPC). The JPC has made several amendments to the bill and submitted its recommendations to the Parliament on May 23, 2006. The JPC has made several pro-tribal amendments to the bill so as to remove those hurdles and make it more progressive and comprehensive. In addition to the STs, the revised bill includes in its ambit "other traditional forest dwellers". The gram sabha is given more powers to hear and decide on the claims to forest land and other resources. The consent of the gram sabha is mandatory regarding land acquisition for development projects. More important are the changes relating to the cut-off date and the ceiling on the extent of land to be regularised. The revised draft extends the earlier cut-off date of 1980 to 2005 and removes the 2.5 ha upper limit.

The bill makes it clear that it will prevail over other laws if the provisions of the latter contravene with those of the former. This is a welcome provision in that forest and wildlife laws have often been used against tribals. The amendments try to strike a balance between tribal rights and the state-induced deprivations caused by forest laws and development projects. So the pro-tribal tilt of the bill is understandable. A complementary policy initiative that is long overdue is related to land alienation to non-tribals. If protective laws are not strengthened and implemented effectively the forest rights contemplated by the above bill may not make a difference to tribal livelihoods.

The Forest Rights Bill also refers to the land rights of tribals displaced by development projects. The bill should have provisions to ensure that the land rights of the displaced tribals without documentary evidence to the ownership are also protected. Because the tribal lands remain unsettled; and unrestored in the case of alienation to non-tribals. This could result in non-tribals receiving compensation at the expense of tribals. More important, the policy should ensure that the resettled tribals do not lose their constitutional entitlements and the benefits of protective and developmental policies under the Fifth Schedule. Interestingly, the bill focusing on forest rights does not delineate the rights of tribals over mineral resources. Land alienation to non-tribals has also been a part of "historical injustice". But the state, instead of attempting to restore the alienated land to the tribals, seems to have opted the easy way out, that is regularising the encroachments through the Forest Rights Bill.

Predominantly tribal villages that have remained outside the scheduled areas should be scheduled. Unfortunately, the centre is yet to act on the proposals, submitted by the Andhra Pradesh government two decades ago, to schedule 796 such villages in the state. Since the number of informal workers, including migrant labourers, among the STs is on the rise, providing them social security would go a long way towards reducing their vulnerability. The recently formulated bill, i.e., the Unorganised Workers Social Security Bill 2006 seeks to provide minimum level of social security to the poor informal worker. Experience has shown that the top-down tribal development policies have largely failed to deliver on their promises resulting in a situation where the vast majority of indigenous tribals have remained at the receiving end. It is in this context that the suggestion of granting autonomy to the AP scheduled areas under the Sixth Schedule merits close consideration. **EPW**

[This paper draws on a background study for the World Bank Land Policy Economic Sector Work in India. The views and opinions expressed are those of the authors alone and should not be taken to reflect those of the World Bank. The authors are grateful to an anonymous referee of this journal for very helpful comments.]

Email: slaxmanrao@rediffmail.com
PDeshingkar@odi.org.uk
JFarrington@odi.org.uk

References

- Danam, B (1977): 'Andhra Pradesh' in S N Dubey and Ratna Murdia (eds), *Land Alienation and Restoration in Tribal Communities in India*, Himalaya Publishing House, Bombay.
- D'Silva, Emmanuel, Urmila Pingle and Mark Poffenberger (2004): *Community-based Environmental and Financial Management in Adilabad District, India*, Community Forestry International, USA.
- Haimendorf, Christoph von Furer (1979): *The Gonds of Andhra Pradesh*, Vikas Publishing House, New Delhi.
- Ministry of Tribal Affairs (GoI): *The Scheduled Tribes (Recognition of Forest Rights) Bill, 2005*, available at: www.tribal.nic.in/billTA05.pdf
- Murali Manohar, K and Janardhan B Rao (1992): 'Tribal Agricultural Labour: An Enquiry into the Depeasantisation Process' in Buddhadeb Chaudhuri (ed), *Tribal Transformation in India*, Vol I, Inter-India Publications, Delhi.
- National Advisory Council (GoI) (2004): *Common Minimum Programme: Recommendations on Tribal Welfare*, available at: www.nac.nic.in.
- Rao, Mohan K (1999): *Tribal Development in Andhra Pradesh: Problems, Performance and Prospects*, Booklinks Corporation, Hyderabad.
- Reddy, Subba N (1988): 'Depriving Tribals of Land: Andhra Move to Amend Land Transfer Laws', *Economic and Political Weekly*, July 16.
- Reddy, Ratna V et al (2004): *Participatory Forest Management in Andhra Pradesh: A Review of Policies and Implementation*, Working Paper No 4, Center for Economic and Social Studies (Hyderabad) and Overseas Development Group (UK).
- Saxena, N C (2006): 'The Resettlement and Rehabilitation Policy of India' in Hari Mohan Mathur (ed), *Managing Resettlement in India: Approaches, Issues and Experiences*, Oxford University Press, New Delhi.