

THE INDIGENOUS WORLD 2009

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THE INDIGENOUS WORLD 2009

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INDIA

In India, 461 ethnic groups are recognized as *Scheduled Tribes*, and these are considered to be India's indigenous peoples. In mainland India, the Scheduled Tribes are usually referred to as *Adivasis*, which literally means indigenous peoples. With an estimated population of 84.3 million, they comprise 8.2% of the total population. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognized. Estimates of the total number of tribal groups are as high as 635. The largest concentrations of indigenous peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal. India has several laws and constitutional provisions, such as the Fifth Schedule for mainland India and the Sixth Schedule for certain areas of north-east India, which recognize indigenous peoples' rights to land and self-governance. Indigenous peoples continue to face civil and political rights violations, land alienation, displacement and false prosecution for accessing minor forest produce. As India's booming economy requires more resources, indigenous peoples' land and resources have been grabbed, resulting in a strong sense of alienation among the indigenous peoples and further exacerbating conflicts. The laws aimed at protecting indigenous peoples have numerous shortcomings and their implementation is far from satisfactory. India has a long history of indigenous peoples' movements aimed at asserting their rights.



Legal rights and policy developments

On 1 January 2008, the government of India notified the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.¹ Hence, the Scheduled Tribes and Other Tradi-

tional Forest Dwellers (Recognition of Forest Rights) Act of 2006, notified on 31 December 2007, came into force giving tribals and “other traditional forest dwellers” rights over land and forest produce.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) (Amendment) Bill, 2008 was listed for introduction during the monsoon session of Parliament (17 July – 23 December 2008) but was finally withdrawn.² The Ministry of Social Justice and Empowerment has reportedly proposed amendments to Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 to give “absolute jurisdiction” to Special Courts constituted to try the cases under this Act.³

By the end of 2008, the government of India had failed to release the final National Tribal Policy, drafted by the Ministry of Tribal Affairs in June 2006 to address various issues concerning the tribals and the indigenous peoples. The draft National Tribal Policy has been under consideration by a Group of Ministers.⁴

Indigenous peoples engulfed by armed conflicts

In 2008, 21 out of total of 28 Indian states were afflicted by internal armed conflicts. Except in the states of Jammu and Kashmir, in all others (7 North Eastern states and the 13 states afflicted with Naxalite or Maoist conflicts) indigenous peoples are disproportionately affected by human rights violations both by the security forces and the armed opposition groups.

Even tribal rights’ activists have faced repression from the state. Between 2 July and 11 July 2008, three activists of the Keonjhar Integrated Rural Development and Training Institute (KIRDTI) were arrested in Orissa charged with having alleged links with the Maoists. They have been charged under several sections of the Indian Penal Code (IPC) and Sections 25 and 27 of the Indian Arms Act. On 11 July 2008, four other activists of KIRDTI had to flee Keonjhar district to escape arrest by the police for alleged links with the Maoists. KIRDTI is a voluntary organization working for the tribals’ land rights, ecological protection from mining and illegal felling of trees in Harichandanpur and Banspal

Block of Keonjhar district in Orissa. The activists of KIRDTI have been targeted by the police for defending human rights.⁵

Human rights violations against indigenous peoples

According to the National Crime Records Bureau (NCRB) of the Ministry of Home Affairs, a total of 5,532 cases of crimes committed against tribals were reported in the country during 2007 as compared to 5,791 cases in 2006, showing a decline of 4.5%. But the NCRB figures do not reflect the actual intensity of violence. The majority of the atrocities are not reported and, when they are brought to the police authorities, they sometimes refused to register the cases, and the conviction rate remained as low as 27% during 2007.⁶

Human rights violation by the security forces

The security forces were responsible for gross violations of the rights of indigenous peoples during the year. Following the failed attempt on the life of West Bengal Chief Minister Buddhadeb Bhattacharjee by suspected Maoists on 2 November 2008, the police swooped down upon the tribal villagers in Lalgarh in West Midnapur district to conduct a search operation but ended up harassing the innocent tribal villagers, including women and children. The police arrested several innocent tribals, including school-children, as "Maoists".⁷ In protest, the tribals felled hundreds of trees to block the roads and virtually declared the area a "Republic". On 7 December 2008, the tribals suspended their protests⁸ after Chief Minister Buddhadeb Bhattacharjee tendered an apology in the State Assembly, withdrew some police camps from Lalgarh,⁹ removed the inspector-in-charge of Lalgarh police station and dropped charges against eight arrested tribal villagers, including three schoolboys.

Several innocent indigenous villagers were shot dead or seriously wounded during anti-insurgency operations, as on 7 January 2008 by the Tripura State Rifles (TSR) in Kunjaban of West Tripura district in Tripura state,¹⁰ or on the night of 22 November during an anti-Maoist operation near Kutuniganda village in Gajapati district of Orissa.¹¹

Human rights violations by the *Salwa Judum* militia in Chhattisgarh

On 31 March 2008, while hearing two petitions to disband the civilian militia *Salwa Judum*, the Supreme Court of India noted that it was illegal to “give arms to somebody and allow him to kill” and that this could make the state an “abettor of the offence under Section 302 of the Indian Penal Code.”¹² On 15 April 2008, the Supreme Court asked the National Human Rights Commission (NHRC) to investigate allegations of human rights abuses by the *Salwa Judum* forces and the Maoists. The tribals had to face violent retribution at the hands of *Salwa Judum* for making depositions before the visiting NHRC investigation team.

On 26 June 2008, an independent fact-finding team of non-governmental organizations from Madhya Pradesh, including Narmada Bachao Andolan, Bhopal Gas Peedit Mahila Udyog Sangathan and Madhya Pradesh Mahila Manch, visited Nendra village in Konta block in Dantewada district and found that 11 houses belonging to the *Adi-wasis* (tribals) of this village had been completely burnt down by the *Salwa Judum* members in reprisal for depositions made by the villagers before the NHRC investigation team on 10 June 2008. The independent fact-finding team also learnt that between 2005 and 2008, 16 men and women and at least nine children of Nendra village were killed by members of the *Salwa Judum* and the security personnel. At least four women had been raped. Over 150 houses have been burnt down by *Salwa Judum* members.¹³

Violation of humanitarian law by the armed opposition groups

The armed opposition groups continued to be involved in gross violations of human rights, including killings, abductions and torture during 2008. The Naxalites or Maoists were the worst violators of the rights of the indigenous peoples. They continued to kill innocent tribals on the charge of being “police informers” or members of the anti-Maoist civilian militia such as *Salwa Judum* and for not obeying their diktats. On the night of 17 January 2008, Maoists killed 35-year-old tribal, Samireddy Ganesh of Bhiram village in Visakhapatnam district

of Andhra Pradesh¹⁴ and, on 11 December, the Maoists shot dead a tribal leader, Sudhir Mandi at Jordanga village in West Midnapore district of West Bengal, for leading an anti-Maoist protest in Belpahari.¹⁵

From 13-22 March 2008, alleged cadres of the National Liberation Front of Tripura (NLFT) raided Karnamuni and Tetia villages in Dhalai district of Tripura several times and tortured the tribal villagers for not voting for an NLFT-backed candidate in the Legislative Assembly elections held on 7 February 2008. At least 67 tribal families were forced to flee their homes.¹⁶

Violence against indigenous women and children

Indigenous women and children are highly vulnerable to violence, including killing, rape and torture from non-tribals, security forces and members of the armed opposition groups in armed conflict situations. The National Crime Records Bureau recorded a total of 627 cases of rape of tribal women in 2007, as compared to 699 cases in 2006. Out of these 627 rape cases, 45.9% were reported from Madhya Pradesh.¹⁷

Tribal women were targeted both by the armed opposition groups and the security forces. On the night of 3 February 2008, a 38-year-old tribal woman identified as K. Sharada was tortured to death by the Maoists at Muthapur village in Govindraopet mandal of Warangal district of Andhra Pradesh on the charge of being a "police informer".¹⁸

On the night of 22 May 2008, the personnel of the 188th Central Reserve Police Force (CRPF) allegedly opened fire, killing a child named Raju (2) and a woman identified as Rambai (25) at a relief camp at Cherpal village in Bijapur district in Chhattisgarh. Another six-year-old boy and a woman were critically injured in the shooting.¹⁹

In June 2008, police detained three Special Police Officers (SPOs) for allegedly abducting and raping three tribal women near Kirandul in the Naxalite-controlled Dantewada district of Chhattisgarh.²⁰ On 10 July 2008, police arrested two young tribals - Vetti Pojja (14) and Madkam Bima (16) of Nendra village in Dantewada district of Chhattisgarh - as they were returning from the weekly market. The police first shot at Vetti Pojja and then arrested him. Both Vetti Pojja and Madkam Bima

were sent to Dantewada jail charged with “attacking the police with bows and arrows”.²¹

Alienation of the tribals' land

The 5th Schedule and 6th Schedule to the Constitution of India provide stringent protection of the land belonging to the tribal peoples. In addition, at the state level, there is a plethora of laws prohibiting the sale or transfer of tribal lands to non-tribals.

Yet the rate of alienation of tribal land in India is alarming. The 2007-2008 Annual Report of the Ministry of Rural Development stated that a total of 506,307 cases of tribal land alienation, involving 902,417 acres (or 365,351 hectares), had been registered in 12 states of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan and Tripura.²² This clearly shows that the laws relating to protection of tribal land have failed. And the high rate of tribal land alienation suggests the presence of an unholy nexus between the non-tribal land grabbers and government officials at various level of administration.

In addition, the government has also forcibly displaced tribals from government land without providing them with any alternative land to settle on and survive. On 26 February 2008, the police launched a massive eviction drive in Malancha Niwas and its adjacent areas in Agartala in Tripura and expelled over 450 “landless” tribal families from “government land”. At least 25 tribals, including women, were injured in the police action.²³

According to the 2007-2008 Annual Report of the Ministry of Rural Development, Government of India, out of total 430,450 cases of tribal land alienation (involving 851,372 acres) ruled on by the Court, a total of 198,674 cases (involving 410,587 acres of land) were rejected i.e. a decision taken against the tribal petitioners. Only 225,343 cases (involving 500,376 acres) were decided in favour of tribals, out of which only in 203,064 cases was the land (involving 418,128 acres) restored to tribals. A total of 55,702 cases involving 128,360 acres of land are pending at the Court.²⁴

The conditions of indigenous internally displaced people

Development-induced displacement

The tribals have been up in arms against various so-called development projects such as dams, steel plants, mining etc. across India. In a report presented to the Lok Sabha (Lower House of Parliament) on 23 October 2008, the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes stated,

*The Committee pointed out that notwithstanding Act and regulations to control alienation of tribal land, tribal people are being alienated from their land in the name of development and due to insufficient amount given to them for their land, they migrate to other places in search of livelihood.*²⁵

Neither the Ministry of Tribal Affairs nor the National Commission for Scheduled Tribes has undertaken any study with regard to displacement and rehabilitation of tribals in the country.

On 8 August 2008, the Supreme Court allowed South Korean steel giant POSCO to use 2,900 acres of forests in Orissa's Jagatsinghpur district to build a steel plant, and Sterlite India Limited, a subsidiary of Britain's Vedanta Resources plc, to mine bauxite in Niyamgiri hills in Kalahandi district of Orissa. The Nyamgiri hills are considered sacred by the indigenous Dongria Kondh.²⁶ The Supreme Court's order has undermined the tribal protests and encouraged further forcible acquisition of tribal lands, leading to their displacement without proper rehabilitation, destruction of their culture and posing threats to their survival in the name of development. Under the aegis of *POSCO Pratirodh Sangram Samiti* (Committee for the Resistance Against POSCO), the tribals have been resisting the proposed steel plant, which is expected to displace about 4,000 tribal families.²⁷ The state government has allegedly backed the pro-POSCO activists to counter the movement by *POSCO Pratirodh Sangram Samiti*. On 20 June 2008, an anti-POSCO tribal activist identified as Dula Mandal (35) died in an attack by pro-POSCO villagers near Gobindpur.²⁸

On 29 June 2008, the National Human Rights Commission (NHRC) sent an investigation team to probe allegations that the Orissa government had forcibly evicted over 10,000 villagers from their homes in Bhadrak district to make way for a massive flood-control project, the Salandi-Nalia river Sanskar project. According to the complaint filed by Advocate Radha Kanta Tripathy, the state government of Orissa did not serve any land acquisition notice nor did it take any steps to rehabilitate the displaced villagers. The villagers had been forcibly evicted from their agricultural lands.²⁹ According to the affected villagers, thugs had been hired by contractors to attack people who protested against the “illegal” acquisition of land.³⁰

The government of Arunachal Pradesh has reportedly signed 42 Memoranda of Association with various power supply developers over the past three years to execute hydro power projects of 23, 591 MW in the state.³¹ Some of these projects have met with protests from the local indigenous peoples as they would lead to mass displacement and cause environmental hazards. For example, the local indigenous peoples demanded scrapping of the 1,000-MW Siyom hydel project at Reying under the Payum circle of West Siang district on the grounds that it would have adverse impacts on the livelihood of the indigenous Bori peoples.³²

Conflict-induced displacement

In 2008, the tribals of Chhattisgarh continued to flee from their villages due to the Naxalite conflict. Media reports estimated that nearly 120,000 Gutti Koya tribals of Bastar and Bijapur districts of Chhattisgarh had fled to Andhra Pradesh’s border district of Khammam during January-June 2008 to escape violence by the Maoists and the *Salwa Judum* activists.³³ The displaced persons have been viewed with suspicion by the administration and denied basic amenities including food, water, shelter, medical services, sanitation and livelihood opportunities. Maoists also created problems for the evacuees living in the relief camps by blocking supplies of humanitarian aid.³⁴

From 17-19 December 2007, the National Commission for Protection of Child Rights (NCPCR) sent a fact-finding team to Dantewada district in Chhattisgarh and Khammam district in Andhra Pradesh to

study the conditions of the displaced tribal children. In its report, the NCPCR states, "The harmful effects of internal displacement and conflict are particularly acute for children. Forced to live in relief camps, the children are bereft of education, lack access to health and nutrition and miss out on their childhood."³⁵

In August 2008, communal clashes broke out between the Bodos, Assam's largest tribal group, and non-tribal Muslims. The riots began on 14 August 2008 following the killing of a Bodo tribal youth by supporters of a *bandh* (strike) called by the Muslim Students Association, Assam in Udalguri district. The clashes soon spread to Darrang and Sonitpur districts, claiming 17 lives and resulting in the displacement of 14,279 persons who had been sheltering in nine relief camps. Again, from 3-7 October 2008, Bodos bitterly fought with Muslims in Udalguri and Darrang districts. By the time paramilitary troops sent by the central government had quelled the violence, 55 persons had died, 2,505 houses had been either completely burnt down or partially destroyed and over 200,000 people had fled their homes out of fear. There were casualties on both sides.³⁶ The actual cause of the conflict was believed to be resentment among the Bodo tribals regarding encroachment onto their lands by the Muslims, many of whom are believed to be illegal immigrants from Bangladesh.

Following a complaint filed by the Asian Indigenous and Tribal Peoples Network (AITPN) against the failure to include 7,204 internally displaced Bru children in Tripura on the food relief cards, on 8-9 September 2008 the National Commission for Protection of Child Rights (NCPCR) visited the relief camps in Tripura that had been housing the Bru indigenous IDPs since they fled Mizoram state following ethnic conflict in 1997. The members of the NCPCR:

*were appalled by the sub human conditions under which the families had to survive.... There was none or little, if any, registration of births and deaths, marginal immunisation, no health facilities or primary health centres, no functional schools, no safe drinking water, poor sanitation and inadequate rations.*³⁷

At least 30 Bru children died in the relief camps through malnutrition and disease in August 2008 alone.

Repression under forest laws

As stated above, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 came into force on 1 January 2008. In August 2008, the Ministry of Tribal Affairs stated that more than 800,000 claims from different states had been received requesting allocations of land to tribals under the Forest Rights Act.³⁸

Yet the Forest Rights Act 2006 saw little implementation during 2008. The tribals continued to be arrested for accessing minor forest produce, evicted from their lands, their huts gutted and people even killed by the forest officials. On 8 February 2008, forest guards shot dead a 16-year-old tribal boy, Shyamal Rabha, at the Buxa Tiger Reserve in Jalpaiguri district of West Bengal. The forest officials accused him of being a "timber smuggler" but the locals and family members said he and three others had gone to the forest to collect firewood for domestic use.³⁹ Again, on 13 February 2008, two tribals were killed when police fired on tribals protesting at the forcible evictions in Antarsumba village in Vijaynagar taluka of Sabarkantha district in north Gujarat.⁴⁰

Hundreds of tribals were forcibly evicted from "forest land" by the forest officials in violation of the Forest Rights Act 2006. On 19 March 2008, Andhra Pradesh's Minister for Forest and Environment, S. Vijayarama Raju, announced in the State Assembly that the state government had decided to evict tribals from all the 32 existing habitations in the Rajiv Gandhi Tiger Reserve, which lies between Nagarjunasagar and Srisaïlam, to save the dwindling tiger population. He stated that the displaced tribals would be allotted houses and provided with compensation.⁴¹ Similarly, in early November 2008, Tripura Wildlife Advisory Board approved the setting up of a wildlife reserve at Kalajhari-Laxmipur-Dhalagari in Dhalai district in Tripura. Thereafter, more than 400 indigenous families residing inside the earmarked wildlife reserve were served eviction notices by the local administration. One estimate indicated that around 50,000 indigenous peoples would be affected by this proposed Wildlife Reserve project.⁴²

Forest officials often burn houses and destroy standing crops in order to force indigenous peoples off their land. In January 2008, at least 125 houses were burnt by forest officials in Peepal Khotha and Juni-

wadi villages in Burhanpur district of Madhya Pradesh. The forest officials had allegedly hired over 100 labourers to attack these villages.⁴³ On 2 July 2008, forest officials and police personnel burnt down 125 huts and forcibly evicted over 400 Pardhi tribals from forest land near Wadoda village under Jalgaon Jamod taluka in Buldhana district of Maharashtra.⁴⁴ On 14 October 2008, forest guards allegedly completely destroyed the standing crops of 16 tribal families in Dabhas village under Ahwa sub-division in Dang district of Gujarat. The forest guards also allegedly destroyed the standing crops of seven tribal villagers at Bhapkal village and set fire to the hut belonging to one Mangalbai Amirbai at Mokhamal village in Dang district.⁴⁵ On 4 December 2008, forest officials allegedly set 17 tribal huts at Bir Birsa Munda Colony near Malbazar in Jalpaiguri district of West Bengal ablaze simply for not showing land documents to the forest officials.⁴⁶

Affirmative actions

The Constitution of India provides an array of affirmative action programmes for the Scheduled Tribes (tribals) and the Scheduled Castes (dalits), including reservation in the Parliament, education, employment etc. These affirmative action programmes have been instrumental in bridging the social, political and economic disparities between the tribals and the general population. The affirmative action programmes have, however, failed to achieve their desired results in India through lack of proper implementation.

Non-implementation of reservation in employment

On 23 December 2008, the central government tabled the Scheduled Castes and Scheduled Tribes (Reservation in Posts and Services) Bill 2008 in the Rajya Sabha (Upper House of Parliament).⁴⁷ The Bill seeks to end de-reservation of posts meant for Scheduled Castes (SCs) and Scheduled Tribes (STs) in central government jobs and stipulates penal action against offices which did not implement the reservation policy.⁴⁸

The government failed to ensure 7.5% and 15% reservations of government jobs for the Scheduled Tribes and the Scheduled Castes re-

spectively. This is evident from the findings of the Parliamentary Committee on Welfare of Scheduled Castes and Scheduled Tribes.⁴⁹ In Assam alone, there was around a 29,000 backlog of vacancies for Scheduled Castes and Scheduled Tribes in various government departments as of 23 September 2008, according to the All Assam Tribal Unemployed Association.⁵⁰

Non-utilization and misuse of tribal funds

In a report tabled in the Lok Sabha on 21 April 2008, the Standing Committee on Social Justice and Empowerment recommended that, "The funds should be allocated in proportion to the population of the Scheduled Tribes to the total population in the country. As such, at least 8.5 per cent of the Budget of the entire country should be provided for the development of tribals."⁵¹

Various state governments do not fully utilize, and some even misuse, the funds allocated to them for tribal development. A report by the Comptroller and Auditor General of India, tabled in the Jharkhand State Assembly in March 2008, found that the Jharkhand government used only 855.5 million out of 1.83 billion Rupees it had received from central government during 2003-2007 under the Integrated Tribal Development Project. The unused funds were kept in banks and the interest earned was used to repair official buildings.⁵²

The Standing Committee on Social Justice and Empowerment found that funds could not be released for the development of tribals due to inaction on the part of state governments. During 2007-08, the Ministry of Tribal Affairs had to withhold grants under Special Central Assistance to the Tribal Sub Plan to the states of Assam, Bihar, Chhattisgarh, Jharkhand, Jammu & Kashmir, Madhya Pradesh, Tamil Nadu, Tripura, Uttar Pradesh and Uttarakhand due to their inability to furnish Utilization Certificates and unspent balances.

There is also little awareness of the various affirmative action programmes benefiting tribals. The Standing Committee on Social Justice and Empowerment noted that "sufficient steps have not been taken by the Ministry (of Tribal Affairs) to generate awareness among tribal people about the various schemes being implemented for their upliftment."⁵³

Denial of voting rights to Chakmas and Hajongs

In February 2008, the High Power Committee on Chakmas and Hajongs headed by the Speaker of the Arunachal Pradesh Legislative Assembly, **Setong Sena**, submitted its report to the government of Arunachal Pradesh. The report has, however not been made public so far.

In the absence of a permanent political settlement of the Chakma and Hajong imbroglio, the members of the Chakma and Hajong community continue to be deprived of their rights, including the right to vote (see *The Indigenous World 2008*). There are around 15,000 eligible Chakma and Hajong voters who continue to be denied registration on the electoral rolls.

During 2005-2008, the Election Commission of India held four summary revisions and one Intensive Revision of electoral rolls in Arunachal Pradesh but, for the Chakmas and Hajongs, there has been practically no revision of electoral rolls over these past four years. There is no change in the situation because the state government continues to violate the guidelines/directions of the Election Commission. Rather than increasing, the number of Chakma and Hajong voters has consistently decreased over the last 5 years. □

Notes

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