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**THE POLITICAL ECONOMY
OF CAPITALISM,
'DEVELOPMENT' AND
RESISTANCE:
THE STATE AND
ADIVASIS OF INDIA**

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ABSTRACT

This report is circumscribed in its aims, limiting itself to a subset of all that could be written about the status and situation of Scheduled Tribes in India today.

An introduction in chapter 1 sets out demographics of the tribal population and the characteristics of their habitat, predominantly in mainland India.

In chapter 2, we set out how the colonial State constructed and codified the 'tribal' and the 'tribal area', with a narrative of a civilising mission thinly disguising instrumental forays to support the security and economic needs of the Empire. The post-colonial State begins with an isolationist stance, but quickly reverts to the mode of the colonial State.

We see in chapter 3, the use of the same categories of the 'tribal' and the 'tribal area'—ostensibly for progressive policies and special dispensation—but increasingly such categories are used to further an integrationist agenda whereby their 'modernisation' and 'development' is closely shadowed by security imperatives.

In chapter 4, we empirically examine how the Scheduled Tribes have been faring on poverty, deprivation and some other development indicators over the past two decades. Soon after India's liberalisation, the 8th Five-Year Plan onwards, the post-colonial State formulated new institutional reform legislations, such as the Panchayat (Extension to the Scheduled Areas) Act in 1996 and Forest Rights Act in 2006, which are discussed in chapter 5.

We show that while these legislations were envisaged to provide the tribal population complete autonomy to self-govern and to bestow upon them the rights to forests and forest produce, the actual experiences have been largely otherwise. We argue that the loss of these historical opportunities to address a long history of exploitation and misbegotten promises can be understood if one looks closely at the ultimate loci of power for the implementation of these legislations at the local government level; the forces of federalism, in so far as they allow states to compete in a race to the bottom; and the political economy of Indian capitalism.

In chapter 6, we look at some other legislative and policy reforms—Land Acquisition, Rehabilitation and Resettlement Act 2013 and the Draft Mines and Minerals (Development and Regulation) Bill 2011, which were aimed at fostering growth but in reality, affect the tribal population disproportionately and adversely. Looking at this trajectory, the recent 'internal security' initiative of the State (the Integrated Action Plan of the Eleventh Plan Period), as a response to violent resistance, seems—unfortunately—to be almost predestined.

We conclude the report in chapter 7 with a few reflections on the political economy of capitalism, 'development', and resistance, as it plays out between a strongly interventionist State and the adivasis of mainland India.

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LIST OF IMPORTANT ABBREVIATIONS

| | |
|--------|---|
| BRGF | Backward Regional Grant Fund |
| CPR | Common Property Resources |
| FRA | The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act |
| FYP | Five-Year Plan |
| Gol | Government of India |
| GoM | Group of Ministers |
| IAP | Integrated Action Plan |
| ITDA | Integrated Tribal Development Agency |
| ITDP | Integrated Tribal Development Project |
| LARR | The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill |
| LWE | Left-Wing Extremism |
| MADA | Modified Area Development Approach |
| MoEF | Ministry of Environment and Forests |
| MoRD | Ministry of Rural Development |
| MoTA | Ministry of Tribal Affairs |
| NREGS | National Rural Employment Guarantee Scheme |
| NRRP | National Rehabilitation and Resettlement Policy |
| NSTFDC | National Scheduled Tribes Finance and Development Corporation |
| PESA | Panchayat (Extension to the Scheduled Areas) Act |
| PTG | Particularly Vulnerable Tribal Groups |
| SCA | Special Central Assistance |
| SMPTB | Special Multi-Purpose Tribal Blocks |
| SRE | Security Related Expenditure |
| ST | Scheduled Tribes |
| TDB | Tribal Development Blocks |
| TRIFED | Tribal Co-operating Marketing Federation of India Ltd |
| TSP | Tribal Sub-Plan |
| UT | Union Territory |

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CHAPTER 1

INTRODUCTION

This study seeks to understand specific issues pertaining to the situation of the Scheduled Tribes (or the adivasis) of India at present.¹ India has the largest population of adivasi or indigenous peoples in the world.² According to the Census of 2011, the tribal population of 104.3 million accounts for 8.6 per cent of the country's total population. The majority of them—93.8 million—live in rural areas and constitute 11.3 per cent of the rural population, while 10.5 million live in urban areas constituting only 2.8 per cent of the urban population of the country. The topography of the regions where most of the tribal population have traditionally lived, and continue to live, has been variously described as heavily forested, hilly and remote—most of these regions have been recognised as being mineral-resource rich.³

This study takes a pan-India perspective. At various points, however, data on the three central Indian states of Chhattisgarh, Jharkhand and Odisha, where the share of the Scheduled Tribe population is comparatively high,⁴ is also presented. Census 2011 revealed that Scheduled Tribes account for 31.8 per cent, 26.2 per cent and 22.8 per cent of the total population in Chhattisgarh, Jharkhand and Odisha, with the majority of them in rural areas. Together, these states account for 25 per cent of the country's Scheduled Tribe population. The Census also revealed that certain districts in these states have Scheduled Tribes constituting more than 50 per cent of their total population.⁵ The districts where the tribal population is concentrated are often the ones that have large reserves of unique natural and mineral resources and are targets of specific administrative, developmental and internal security initiatives.

Over 700 Scheduled Tribes are notified under Article 342 of the Constitution at present. Odisha has the largest number—62—in the country. Chhattisgarh has 42 and Jharkhand has 32.⁶ These include those formerly called Primitive Tribal Groups, now called Particularly Vulnerable Tribal Groups, and 13 such groups are found in each of the above states.⁷ Some of the prominent tribes of India, in terms of population, are the Khonds, Santhals, Bhil, Gonds, Munda and Oraon of central India.⁸ Many of these are commonly deemed as Scheduled Tribes across these states.⁹

Of the volumes that could be written about the status and situation of Scheduled Tribes in India today, we confine ourselves to a modest remit in this study. We begin (in chapters 2 and 3) by interrogating the past and present understanding of the tribal population—who are they, where are they located, and how best to deal with them—as employed by the colonial and the post-colonial State.¹⁰ If it was during the colonial period that the construction of the 'tribal' and 'tribal area' first occurred, the post-colonial State took these categories forward in a certain direction—for special dispensation and affirmative action. We turn next (in chapter 4) to empirically examine how the Scheduled Tribes have been faring on poverty, deprivation and other development indicators over the past two decades. Coinciding with India's liberalisation

1 See Appendix, Map 1, which lays out their geographical location and concentration.

2 At present, India does not officially recognise any people as being indigenous, although there are movements afoot for such recognition. See Chapter 1 for a discussion of nomenclature and meanings of various labels for this group.

3 See Appendix, Map 2.

4 Jharkhand was newly carved out of what was Bihar, and Chhattisgarh was carved out of Madhya Pradesh, in 2000.

5 See Appendix, Maps 3, 4, 5.

6 GoI (2013a).

7 *ibid.*

8 Sundar (2014).

9 The 2011 Census makes some additions of names in many listed tribes in Odisha, as compared to Census 2001. Also see GoI (2013a), pp. 57, 59, 64 for the full list in Chhattisgarh, Jharkhand and Odisha respectively.

10 The word 'deal' is used with circumspection here. An alternative word could have been 'interact', but that is ruled out as the ways in which the State related to the tribal population have always been unequal and patronising, if well-meaning in intent. We argue this point in detail in the following chapters.

and in the decades thereafter, from the 8th Plan onwards, the post-colonial State formulated new legislations and policies, discussed in chapters 5 and 6, which affected particularly the tribal population, with results that have largely been contrary to those envisaged.¹¹ Finally, we conclude the report in chapter 7 with a few reflections.

¹¹ These legislations involve institutional reforms to enable self-governance of the Scheduled Tribes and to recognize individual or community rights of tribal people and forest-dwellers to land and forest-resources. On the other hand, legislations pertaining to land acquisition and mining regulations as well as policies driven by internal security concerns, while not exclusively geared towards the tribal population, have direct impact on tribal communities.

CHAPTER 2

THE COLONIAL CONSTRUCTION OF THE TRIBE AND THE TRIBAL AREA

2.1 THE COLONIAL CLASSIFICATION OF THE TRIBAL POPULATION

The nomenclature ‘Scheduled Tribes’, referring to adivasis or indigenous or tribal peoples of India, denote an identity category created by the State to understand a large, diverse and fluid population, spread across vast and remote swathes of the country. A primary motivation of the State in creating this category was to make this diverse population group tractable to governance, both administratively and politically. The colonial State first attempted such an identification and classification exercise, with far-reaching consequences. The instruments used in this exercise were numerous and sophisticated, and as argued below, a dangerous and lasting idea of the ‘Other’ underpinned such explorations.¹ The post-colonial State merely took these categories of communities, and lumped them together (depending on their meeting various imprecise criteria) into the folder of ‘Scheduled Tribes’, for special dispensation under the Constitution of India.

The colonial State, with the help of missionaries and early anthropologists,² defined the tribe along racial and anthropometric lines.³ The resultant discourse saw the tribes as evolutionary primitives, both in relation to the mainstream Hindu religion and castes, as well as to ‘normal’ ways of living and being. In this view, tribes were subdivided into endogamous, exogamous and hypergamous groups, and among the exogamous many were totemistic.⁴

...below the upper crust of observances which Brahmanism and Buddhism enforce, there is a mass of more primitive beliefs, which form the real faith of the majority of the people. This jungle of diverse beliefs and cults has been classed under the unsatisfactory title of Animism, by which is meant the belief which explains to primitive man the constant movements and changes in the world of things by the theory that every object which has activity enough to affect him in any way is animated by a life and will like his own...Some rude stones piled under a sacred tree, a mud platform where a tiger has killed a man, a curiously shaped rock which is supposed to have assumed its present shape from some supernatural agency, are the shrines of the Animist.⁵

On tribal beliefs, the Imperial Gazetteer states, “[a]nimism in its purest form shows itself among the forest races in the centre and south of the Peninsula, and on the lower slopes of the Himalayas”, while “Santals, Gonds, and Bhils, who occupy the hills south of the Gangetic valley”, are falling under the sway of Hinduism, and “the fierce races, like the Nagas, who inhabit the lower ranges on the Assam frontier, have remained comparatively free from Brahman influence”.⁶ Some passages reveal sheer alarm at the practices of the other: “Another remarkable instance of the tribal organization of the Dravidians is to be found among the Khonds of Orissa, once infamous for the human sacrifices which they offered

1 No doubt, pre-colonial and predominantly Brahmanical notions of the “other” fed into colonial constructions of these communities [see Bara (2009)], but a systematic attempt at categorization was unique to the project of empire.

2 Sundar (2014).

3 Hunter (1909), vol. 1, pp. 283-348. The chapter is titled ‘Ethnology and Caste’ and has a bibliography that spans Ibbetson 1881; Risley 1902; Dalton 1872; Crooke 1896; Lyall 1899, as also the Report on the Census of India 1901 and its ethnographic appendices.

4 *ibid.*, p. 348.

5 *ibid.*, pp. 430-431.

6 *ibid.*, p. 431.

to propitiate the earth goddess, with the object of ensuring good crops and immunity from disease and accidents.”⁷

The passage below shows how difficult the British found the Census enumeration process to be. It is apparent that even though they took cognizance of the proximity and fluidity between disparate social groups, this did not reflect in their Census. Instead, they codified and inscribed the groups into distinct colonial Census classifications based on clear cut racial and social identities:

In a country where the accident of birth determines irrevocably the whole course of a man’s social and domestic relations, and he must throughout life eat, drink, dress, marry, and give in marriage in accordance with the usages of the community into which he was born, one is tempted at first sight to assume that the one thing that he may be expected to know with certainty, and to disclose without much reluctance, is the name of the caste, tribe, or nationality to which he belongs. As a matter of fact, no column in the Census schedule displays a more bewildering variety of entries, orgives so much trouble to the enumerating and testing staff and to the central offices which compile the results. If the person enumerated gives the name of a well-known tribe, such as Bhil or Santal, or of a standard caste like Brahman or Kayasth, all is well. But he may belong to an obscure caste from the other end of India; he may give the name of a sect, of a sub-caste, of an exogamous sept or section, of a hypergamous group; he may mention some titular designation which sounds finer than the name of his caste; he may describe himself by his occupation, or by the Province or tract of country from which he comes. These various alternatives, which are far from exhausting the possibilities of the situation, undergo a series of transformations at the hands of the more or less illiterate enumerator who writes them down in his own vernacular, and the abstractor in the central office who transliterates them into English. Then begins a laborious and most difficult process of sorting, referencing, cross-referencing, and corresponding with local authorities, which ultimately results in the compilation of the Census Table XIII, showing the distribution of the inhabitants of India by caste, tribe, race or nationality.⁸

The subset of wandering communities among the tribals—pastoral nomads, itinerant traders and others—attracted greater censure in terms of how they were perceived and categorised under the colonial rule. Much like the Gypsies of Romania, these nomadic people, officially the denotified tribes now, were viewed as hereditary criminals—the infamous Thagi, with proclivity to illegal activities such as dacoity.

The devolution of occupation from father to son, here alluded to, which is so closely bound up with the caste system, is perhaps the most striking feature in the functional distribution of the people of India. The son of a priest is generally a priest; of a potter, a potter; and so forth. This is often the case even with criminal pursuits, such as thagi (now happily extinct) and offences against property. There are many wandering gangs of hereditary criminals whose ostensible means of livelihood are basketmaking, fortune-telling, juggling or peddling; but who really subsist on the profits of cattle-lifting, and of thefts and dacoities based on information gleaned by their women while plying their professed trade. The supervision of these gangs is one of the recognized duties of the police.⁹

Throughout India there are castes and tribes who live largely by the commission of crime, especially thefts, robberies, and cattle-lifting, and whose operations have been facilitated by the development of road and railway communications. A special watch is kept over the doings of these sections of the community, and various Acts have been passed for the purpose of reclaiming the most dangerous among them, and of protecting society against their depredations. A powerful agency for the detection of habitual offenders has been secured in the system of recording and classifying the finger-tip impressions of persons guilty of grave crime.¹⁰

The colonial State believed that control had to be exercised over these wandering groups, through restraining legal and penal injunctions, to maintain ‘law and order’, as the danger of them becoming a rebel force threatening the State was always present. Between 1830 and the beginning of the 20th century, such ‘criminality’ was perceived to have been stamped out: “The existence, till very lately, of a ‘Thagi and Dakaiti department’ bore testimony to the manners of other times, but although the department long retained its old title, its duties changed with the progress of peace and civilization.”¹¹

2.2 THE COLONIAL CONSTRUCTION OF THE TRIBAL AREA

For the colonial power, underpinning the notions of tribal identities and communities were the beliefs about their sequestered habitation, living as they were in remote, hilly and forested terrain. A ‘Heart of Darkness’ view, indicated

7 *ibid.*, p. 309. Contrast and compare with Padel (2011).

8 *ibid.*, pp. 323-324.

9 *ibid.*, p. 487.

10 Hunter (1909), vol. 4, pp. 393-394.

11 *ibid.*, p. 394.

by the discourse referring to these locales as the “wild and sparsely inhabited Native States” of the Central Provinces, was reinforced by Gazetteer reports of epidemics of cholera, malaria fever and grave famines affecting tribes more than others. For example: “improvident aboriginal tribes sustained a far greater diminution than the Hindus, among whom again the low castes suffered more than the high.”¹² Reports of surveyors succumbing to diseases in these parts abounded.

Mention may be made of another topographical survey, in progress from 1853 until 1877, which for nearly twenty years was superintended by a single man—Colonel Saxton. The scene of his labours lay in the deadly jungle-covered tracts from Chota Nagpur to the Godavari, and embraces the Ganjam and Vizagapatam Agencies, and a portion of the Central Provinces with Bastar, Jeypore, and their dependencies, an area of over 70,000 square miles. The history of this survey is one continuous tale of sickness and death due to fever, and of active opposition to its progress by the wild tribes who inhabit that area. Of the many persons employed on it Colonel Saxton alone appears to have passed, though not unscathed, through the long ordeal.¹³

In reaction to creeping market-oriented forays into their domains and consequent exploitation by usurping colonial State officials, landlords and moneylenders, tribal uprisings and rebellions abounded during the course of the 19th and early 20th centuries (the Santhal Hul of 1855-1856, the Birsa Ulgulan of 1895-1900, the Kalahandi rebellion of 1882, and the Bastar Bhumkal of 1910, for instance). Ironically, for the colonial State, these rebellions contributed to ideas of savagery and barbarism, notions that were conveniently used for violently quelling such resistance.¹⁴ Sometimes, various tribes (for instance, those of Assam) were reported as warring against the State: “To the south and south-east there are the Naga Hills, inhabited by many fierce tribes whom we are slowly winning to civilization, and each possessing a language of its own. Such are Angami, Sema, Ao, Lhota, and Namsangia, with fourteen or fifteen others. None of them, of course, has any literature, and of many of them little but the names and a few words are known. The Angami Nagas are those with whom we have fought most, and with whom we are best acquainted.”¹⁵

Throughout this period, forests—integral to the lives of the adivasis—started getting closed off to free access, and their customary and traditional user rights were systematically infringed upon.¹⁶ The reservation of forests, dictated by imperial strategic needs (initially for teak and subsequently for timber and other produce), began with the establishment of the Forest Department in 1864, and the Indian Forest Act of 1878, crystallising into a more draconian form of the Indian Forest Act of 1927. Demand ratcheted up over time, for example with the construction of the railways. Shifting or jhum cultivation, which was the predominant agricultural practice among these communities in northeastern India, especially the hilly and forested expanses, was seen as uncivilised and something that had to be stopped in favour of getting them to settle on lesser lands with lower commercial value, and work the plough.¹⁷

With the emergence of the language of modernisation, industrialisation and technology, these so-called primitive, uncivilised and backward areas became sources of either inputs (labour, etc.) or revenue or both for the Empire’s capitalist engine. People started to migrate—from the Central Provinces to either tea plantations in the northeast or to mills and coal-mines in Bengal:

The great tea industry of Assam has created a demand for labour which the local supply is wholly unable to satisfy, and the planters are thus forced to seek for coolies elsewhere. The consequence is that Assam contains three quarters of a million immigrants, or one-eighth of its total population. These belong for the most part to the hardy aboriginal tribes of the Chota Nagpur plateau in Bengal and the adjacent parts of the Central Provinces and Madras; and, on the expiry of the labour contracts which they execute on coming to the Province, large numbers settle down as cultivators, or as carters, herdsmen, and petty traders [while there are those who] seek employment in the mills of Calcutta and Howrah and the coal-mines of Burdwan, and as earth-workers, palanquin-bearers, and field-labourers all over Bengal proper, where the indigenous inhabitants are too well off to be willing to serve for hire.¹⁸

As for forest revenue and other forms of cess (land etc.), “there ... [was] no considerable source of Imperial taxation now [1909] in existence which had not already been imposed in 1860, and in most cases the increase in the total receipts ... [had] accrued in spite of reductions in the rate of assessment.”¹⁹ In the colonial justification, however, “The Forest department ... [had] looked to the preservation and improvement of this valuable source of wealth rather than to the raising of an immediate large income, but its operations ... [had] been a source of increasing profit, which would have

12 *ibid.*, vol. 1, p.464.

13 *ibid.*, vol. 4, pp. 495-496.

14 Padel (2011); Sunder (2014).

15 *op.cit.* Hunter, vol. 1, p. 387.

16 *Inter alia* Gadgil and Guha (1989).

17 *ibid.*

18 *op.cit.* Hunter, vol. 1, p. 467.

19 *ibid.*, vol. 4, p. 161.

been greater of late years but for the effect of famine.”²⁰

Under “miscellaneous revenue”, excise was “derived from the manufacture and sale of intoxicating liquors, hemp drugs, and opium, all of them commodities whose use must, in the interest of the people, be restrained within reasonable limits”.²¹ Further, “country spirit accounted for much of the total receipts from liquors, and ... [was] prepared by native methods in Bengal, Assam, the United Provinces, the Central Provinces, Sind, the Frontier Province, and Baluchistan”.²² In time as the colonisers spread their tentacles into adivasi areas, although never wholly successfully, revenue relations got established between certain communities and the administration, with some tribes in Assam, the Central Provinces and elsewhere being given licenses to brew alcoholic beverages.

In terms of governance, however, isolationist policies were the order of the day, especially in areas with high concentrations of adivasis. Even though notions of marked ethnic closure were overdrawn—tribal villages being identified with tribal communities only and not as a more heterogeneous group that may include both tribes and castes as social groups—the over-arching belief was that the adivasis were not part of mainstream Hindu society and were meant to be kept apart.²³

It is clear that the colonial State had no problems disrupting the tribal economy to further the statist and commercial interests of empire, at least to the extent it was possible to do so by circumventing tribal resistance. However, at the same time, there was a parallel current of paternalism that also marked the relation between the adivasis and the State. The lens through which the adivasis were viewed, perhaps tinged with romanticism, showed them as privileging their unique culture (inter alia, with discernible equality for their women folk) over the economic, and taking seriously the pursuit of happiness and the ‘pleasure principle’. Further, they were seen to be having an innocent economic psychology, a lack of functional specialisation and deeply non-hierarchical organisation.²⁴ Hence, they were to be protected from being subsumed under the dominant and very different society, from aggressive accumulation and structurally embedded hierarchy.

The colonial State therefore, driven mostly by circumspect pragmatism but somewhat by romantic idealism, especially towards the tribals, had alternative arrangements for governance in the deregulation Provinces (territories acquired later, including Central Provinces, Assam, Punjab, Burma and Oudh, as opposed to the regulation Provinces of Bengal, Madras, Bombay and Agra). Significant differences existed over higher administrative posts in tribal regions not being reserved wholly for the Indian Civil Service; the executive head of the district was termed a deputy commissioner, and not collector; all provinces, except Oudh, did not have an independent Board of Revenue; the district magistrates could exercise more criminal jurisdiction; and in the less advanced deregulation Provinces, often administrative and judicial functions were combined.²⁵ The Scheduled Districts Act of 1874 signalled further that while tribal locales were to be treated administratively as a geographical unit, they were supposedly subject to fewer and unique laws than those imposed elsewhere.²⁶

To conclude, the Imperial State’s treatment of these peoples may be understood at two levels: one, as an attempt to provide a definition of a tribal person; and two, to neatly delineate a tribal area. Each of these missions was portrayed as a ‘civilising’ one, even while the reasons instrumental for undertaking these missions were driven by the Empire’s economy and security-related needs and interests. We turn next to see how independent India has chosen to see and treat the tribal people.

20 *ibid.*, p. 171. For a superb post-colonial account of the dialectical relationship between colonial forest policy as discourse and construction via instruments of power (law, administrative structures, and scientific knowledge), and alternative narratives of forest emerging from resistance to their control see Sivaramakrishnan (1995).

21 *op.cit.* Hunter, vol. 4, p. 252.

22 *ibid.*, p. 255.

23 Corbridge (1988).

24 *ibid.* While Schermerhorn, Mandelbaum and others who articulate these ideas in precisely such form make an appearance much later (in the 1960 and 1970s), the underlying belief of tribal society being distinct from the mainstream Hindu one and therefore requiring protection from it – a view which was convenient to “divide and rule” the population – was very much prevalent under the British.

25 *op.cit.* Hunter, vol. 4, p.54.

26 Sundar (2014).

CHAPTER 3

THE POST-COLONIAL STATE: IDENTIFICATION AND TREATMENT OF THE SCHEDULED TRIBE AND THE SCHEDULED AREA

3.1 THE POST-COLONIAL IDENTIFICATION OF THE SCHEDULED TRIBE

Since Independence, the postcolonial State continues to engage with the tribal people as specific, distinctly-defined and identified population groups that need to be categorised separately in order for the State to carry out governmental interventions. While the avowed interest of the State was to formulate progressive policies for affirmative action and their 'development', it continued to view the *adivasis* as peculiar, distinct—even aberrant—groups, giving the process of engagement a distinct characteristic of civilisational missions as practiced by the colonial powers.

Article 366 (25) of the Constitution of India, following Article 342, identifies a community as belonging to the category of Scheduled Tribe if it meets the following criteria: (a) indications of primitive traits; (b) distinctive culture; (c) geographical isolation; (d) shyness of contact with the outside community at large; and (e) backwardness. These criteria are not enshrined in the Constitution, but are a mix of the definitions used in the pre-Independence Census of 1931, and those proposed in the reports of numerous commissions and committees formed in the 1950s and 1960s. These have come to be the established benchmarks to assess whether a community is fit to make it to the list of Scheduled Tribes today.¹

There are additional criteria to identify the Primitive Tribal Groups (PTGs), now termed the Particularly Vulnerable Tribal Groups—conveniently retaining the same acronym, PTGs—who are the worst off amongst the Scheduled Tribes. These are: (a) pre-agricultural level of technology; (b) very low level of literacy; and (c) *declining or stagnant population* [emphasis ours]. Notified for the first time in 1975-1976 and then again in 1993, the number of PTGs has increased over time from 52 to 75, not because new groups were suddenly found to exist, but because more groups became eligible to be considered as PTGs as they met the portentous third criteria due to many starvation deaths in their midst.²

3.2 INTEGRATIONIST POLICIES FOR SCHEDULED TRIBES

The vociferously claimed and contested politics of identification aside, those groups that are notified as Scheduled Tribes in various Indian states or Union Territories (UT) qualify for a plethora of protective and progressive policies.³

1 Following guidelines approved in 1999, and then revised in 2002, claims for inclusion or exclusion from this list are considered only if the state government, the Registrar General of India and the National Commission for Scheduled Tribes agree to such claims. As with Scheduled Castes, the lists are state- or union territory-specific, and once identified by a notified order of the President, they can only be modified through an Act of Parliament.

2 Radhakrishna (2009).

3 Indian Institute of Dalit Studies (2011). These are in addition to policies that apply to the population as a whole, for instance, Right to Education Act, 2010 etc.

In our understanding, the main thrust of policies till early 1990s was informed by an integrationist agenda based on modernisation and development. But internal security concerns have punctuated this integrationist-developmental stance (discussed in chapter 6). Article 335 of the Constitution guarantees reservation for Scheduled Tribes, in proportion to their population (i.e., 7.5 per cent of total), in public services and posts (in government, public sector undertakings, nationalised banks and the insurance sector), while Article 16 (4A) assures promotions.

On education, Article 15 (4) sets out the State's stance of positive discrimination in favour of Scheduled Tribes, with 7.5 per cent of reserved seats in higher education, while Article 46 reiterates that the State shall take special care to promote their education and economic interests, and protect them from social injustice and exploitation. Then, Article 29 protects Scheduled Tribes' own language, dialect and cultures; Article 350A mandates facilities for instruction in one's mother tongue at the primary stage; and Article 30 allows minorities to establish and administer their own educational institutions. There are also a host of minor Centre-sponsored schemes for scholarships; hostel provisioning; vocational training and other such initiatives in favour of Scheduled Tribe beneficiaries.

On their political participation, seats are reserved for Scheduled Tribes in the Panchayats (via Article 243 D), the legislative assemblies of states (Article 332), and in the Lok Sabha (Article 330). Additionally, ministries of tribal affairs were created in Chhattisgarh, Jharkhand, Odisha and Madhya Pradesh. Further, Article 164 (1) and Article 371 make special political provisions for the Scheduled Tribes in the northeast. Violence against subordinate social identities, both at individual or group level, was recognised as a widespread problem, and was made a cognisable offence via The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The National Commission for Scheduled Tribes was set up to monitor various constitutional provisions for the group, and is vested with civil court powers to look into transgressions.

3.3 THE POST-COLONIAL IDENTIFICATION OF SCHEDULED AREAS

For areas in which tribal populations are concentrated, Verrier Elwin and others argued that the State should take an isolationist stance to maintain the inherent integrity of tribal societies.⁴ Early on, in 1955, Nehru addressed an All India Conference of Tribes in Jagdalpur, Bastar (then in Madhya Pradesh)⁵, setting out the following guiding principles in his Panchsheel for Tribal Development.

- (a) People should develop along the line of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and culture.
- (b) Tribal rights to land and forest should be respected.
- (c) We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.
- (d) We should not over administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through, and not in rivalry to, their own social and cultural institutions.
- (e) We should judge results, not by statistics or the amount of money spent, but by the quality of human character that is evolved.⁶

Exercising his powers under Article 342 (1), the President of India created The Constitution (Scheduled Tribes) Order of 1950, through which he notified Scheduled areas where most tribal populations were concentrated across India. Some rescheduling has been done in subsequent years.⁷ (See **Table 3.1** for a list of Scheduled Areas in Chhattisgarh, Jharkhand and Odisha). An area may be notified as being so if four—rather vague—criteria are met: (a) preponderance of tribals in the population; (b) compact and reasonable size; (c) under-developed nature of area; and (d) marked disparity in economic standards of the people. Again, these criteria are not spelt out in the Constitution, but have become established yardsticks for the identification of such areas.⁸ The key idea behind the declaration of Scheduled Areas was to provide the tribal population with self-governance, as far as possible, so that they are able to protect themselves. Special laws were enacted against land alienation and transfer of land ownership to non-tribals in these areas. Tribal Advisory Councils, with representative membership,⁹ were set up in Fifth Schedule Areas¹⁰ to advise on matters relating to the welfare and advancement of the Scheduled Tribes in the state, as referred to them by the governor. Autonomous District and Regional Councils, with representative membership¹¹ and greater powers, were formed in Sixth Schedule Areas, with administration

4 For Elwin's influence on Nehru's non-interventionist, protective perspective, see Guha [1999].

5 It is ironic that the killing of the founder of the private militia Salwa Judum, Mahendra Karma, takes place in May 2013 in this very place, now in the state of Chhattisgarh.

6 Nehru [1955].

7 The Fifth Schedule pertains to the states of Chhattisgarh, Jharkhand, Odisha, Andhra Pradesh, Madhya Pradesh, Rajasthan, Maharashtra, Gujarat and Himachal Pradesh, while the Sixth Schedule applies to the northeastern states of Assam, Meghalaya, Tripura and Mizoram.

8 These criteria are based on principles derived from the declaration of 'Excluded and Partially-Excluded Areas' under the Government of India Act 1935, Schedule B of the recommendations of the Excluded and Partially Excluded Areas Sub-Committee of the Constituent Assembly, and the Scheduled Areas and Scheduled Tribes (Dhebar) Commission of 1960-1961.

9 Tribal Advisory Councils are to have no more than 20 members, three-fourths of whom are to be representatives of the Scheduled Tribes in the Legislative Assembly of the state and if there are not so many, the seats are to be filled by other members of those tribes.

10 As per the Fifth Schedule, any state having Scheduled Tribes but no designated Scheduled Areas may also constitute Tribal Advisory Councils by order of the President. West Bengal and Tamil Nadu have such councils.

11 District Councils are to have no more than 30 members, of whom not more than four persons can be nominated by the governor and the rest elected, with Regional Councils having similar composition.

of such areas (subject to the Sixth Schedule provisions) vested in these bodies.¹²

Although the committees, which formulated the Schedules, had recommended a far more independent decision-making role for the Tribal Advisory Councils, these were stymied partly by the notion that given the 'backwardness' of tribals, they lacked the ability to self-govern, and partly because some members of provincial assemblies felt threatened by the implied dissolution of their powers. Eventually, to the great detriment of interests of the *adivasis*, these councils were given a purely consultative role, and all power in Fifth Schedule Areas came to be vested with the governor.¹³

3.4 THE POST-COLONIAL TREATMENT OF SCHEDULED AREAS, POLICY SHIFTS THROUGH FIVE-YEAR PLANS

So far, it is seen that although the independent Indian State begins with the good intention to have an isolationist approach towards Scheduled Areas, and comes somewhat closer to fulfilling them in the Sixth Schedule Areas than in the Fifth Schedule Areas, a progressively creeping integrationist stance soon becomes apparent and dominant.

The Constituent Assembly had vociferously debated opposing stances towards tribal areas. G.S. Ghurye, among others, argued against Elwin's (and other similar voices') supposedly 'national parks' approach to tribal areas, and in favour of integrationist policies which would further their 'development'.¹⁴ Slowly, but surely, from the Second Five-Year Plan (1956-61), the State apparatus began to establish such policies, which meshed with the Mahalanobis-Feldman growth strategy focused on rapid development of modern industries, and the overall direction of the planned economy towards national self-sufficiency and modernisation. The tribal areas received special focus via monetary outlays for their 'development', to bring them on par with the rest of the population.

It began, during the Second Plan Period, with the establishment of 43 Special Multi-Purpose Tribal Blocks (SMPTBs), later called Tribal Development Blocks (TBDs), each planned for approximately 25,000 people, as opposed to about 65,000 people in a regular block. Such blocks received disbursements from the Centre, alongside state contributions, for Centre-sponsored schemes. Additionally, there were smaller projects for agriculture, animal husbandry, minor irrigation, forestry, cottage industry and cooperatives. The committee on SMPTBs, chaired by Elwin (1959), found them satisfactory, suggesting only tribal people's participation in the implementation of programmes and ways to overcome bonded labour, get government credit, etc. Consequently, the block-focused approach continued through the Third- (1961-66) and the Fourth-Plan Periods (1969-74).

A significant move during the Fourth Plan was the setting up of six pilot projects, as Central-sector schemes, in Orissa, Bihar, Andhra Pradesh and Madhya Pradesh in 1971-72. The primary objective was to combat political unrest in Left Wing Extremist (LWE) districts. A separate Tribal Development Agency was established for each project. This heralded the start of a new discourse and approach, equating the need for 'development' in these areas to that of combating the Naxal movement. Of course, in the broader context, this was the time of the incipient Naxalbari movement, which stemmed from agrarian distress and peasant discontent, and an aggressive State response to crushing it, both at the Centre under Indira Gandhi and at the state level in West Bengal, under Siddharth Shankar Ray. The politically restless 1960s and 1970s were capped with this supposed 'security' agenda and discourse from the State, which continued until 1977 and the Left government's arrival in West Bengal. Echoes of such an intertwined 'development-deficit' and 'internal security' agenda from the State were seen again in the Integrated Action Plan of the Eleventh Plan (discussed in chapter 6), and Operation Greenhunt, to wipe out Maoists.

However, while Elwin's 1959 Committee found the block focus satisfactory, the Dhebar Commission of 1960-61 argued it was not enough, pointing to continued land alienation, educational backwardness, indebtedness and exploitation of tribal groups, a view also reiterated by the Shilu Ao Committee in 1969. The stage was set for a systematic focus on 'backward' Tribal Sub-Plan Areas, conceived by the Dube Committee set up in 1972, as the unit for receiving welfare largesse towards their 'progress' and 'modernisation'. From the Fifth Plan onwards, then, the Tribal Sub-Plan focused on the expansion of infrastructure, as well as the expansion of coverage of target groups for beneficiary-oriented programmes, and was a route via which resources were funnelled for direct development of "certain areas besides Scheduled Areas, [which] were

12 These independent councils are empowered to make laws to further the interests of the community with respect to common land purpose (while allowing acquisition by the state government for causes it deems of public interest) and property inheritance, management of forests other than reserved forests, use of canal or water courses for agriculture, regulation of jhum cultivation practices, village or town policing, public health and sanitation, appointment of Chiefs or Headmen, marriage and divorce, and social customs. They can also make regulations to control money-lending and trading by non-tribals. The Councils can set up and manage primary schools, and can prescribe the language and manner in which education is imparted therein, as also dispensaries, roads and road transport, ferries and waterways, etc. Councils can access independent District and Regional Funds, with powers to assess and collect land revenue and to impose taxes. Importantly, on licenses or leases for prospecting or mining minerals, share of the royalties as agreed between the state government and the council accrue to the council, with the Governor having the final say over any share disputes.

13 Sundar (2014). The Panchayati (Extension) to Scheduled Areas Act (PESA) of 1996, which sought to allow for greater self-governance in these areas, shall be discussed in Chapter 5.

14 Ghurye (1943); Sundar (1997).

also found having preponderance of tribal population”.¹⁵ It was further argued that making the Fifth Schedule powers available to the executive even in these areas would be helpful in properly implementing the development programmes in these areas.¹⁶ By a Constitutional amendment in 1976, it was decided that the boundaries of the Scheduled Areas would be made coterminous with those of the Tribal Sub-Plan Areas, and to empower the President to increase the size of a Scheduled Area in any state, where necessary.

In essence, the Tribal Sub-Plan (TSP) refers to the preparation of socio-economic development plans meant for the welfare of tribals within the ambit of a state or UT plan. The tribal areas of a state or UT are given benefits under the TSP, in addition to what they receive from the overall Plan of a state/UT. The TSP is meant to identify the resources for such areas; prepare a broad policy framework for development therein; and define a suitable administrative strategy for its implementation. The TSP is applicable to 22 states and two UTs.¹⁷ Funding flows for the TSP, both from the Centre and the state are decided on the basis of proportions of tribal population in the states and UTs. Funding for development programmes under TSP are sourced from (1) State Plans; (2) Special Central Assistance to Tribal Sub-Plan (SCA to TSP); (3) Grant under Article 275(1) of the Constitution and other Schemes of the Ministry of Tribal Affairs; (4) Sectoral Programmes of Central Ministries/Departments; and (5) Institutional Finance. These are discussed in greater detail below.

In complicated extensions, programmes were introduced by the Union government under Special Central Assistance to Tribal Sub-Plan Areas (SCA to TSP, wherein money flows from the Centre as an additive to the state Plan (for spheres not normally covered by the latter’s provisions, such as family-based income and employment generating activities, etc.) for ‘economic development’ in the following areas and populations¹⁸:

- (1) Integrated Tribal Development Project (ITDP) implemented by the Integrated Tribal Development Agency (ITDA), in contiguous areas of the size of at least a tehsil or block in which the Scheduled Tribe population is 50 per cent or more of the total population
- (2) Modified Area Development Approach (MADA) pockets an area of a population of 10,000, where at least half the population is deemed as belonging to Scheduled Tribes.
- (3) Cluster, an area of a population of 5,000, where at least half the population is deemed as belonging to Scheduled Tribes.
- (4) Particularly Vulnerable Tribal Groups (PTGs).
- (5) Dispersed tribal population, i.e., those tribal people who fall outside the above four categories.

Table 3.1: Area Delineation in Odisha, Jharkhand and Chhattisgarh into Fifth Schedule Areas, TSP Areas and IAP Areas

| State | Scheduled Area* | ITDPs/ ITDAs# | MADA# | Cluster# | PTGs# | Integrated Action Plan Districts (All India = 60)^ | LWE | |
|--------|---|--|-------|----------|-------|---|--|---|
| Odisha | <ul style="list-style-type: none"> - Mayurbhanj (D) - Sundargarh (D) - Koraput (D) - Kuchinda (T) in Sambalpur (D) - Keonjhar, Telkoi, Champua, Barbil (T) in Keonjhar (D) | <ul style="list-style-type: none"> - Khondmals, Balliguda, G. Udayagiri (T) in Boudh-Khondmals (D) - R. Udayagiri (T), Guma, Rayagada (B), Surada (T) in Ganjam (D) - Thuamul Rampur (B), Lanjigarh (B) in Kalahandi (D) - Nilgiri (B) in Balasore (D) | 21 | 46 | 14 | 13 | <ul style="list-style-type: none"> - Mayurbhanj (D) - Sundargarh (D) - Koraput (D) - Sambalpur (D) - Kendujhar vs. Keonjhar (D) - Kandhamal (D) - Gajapati (D) - Kalahandi (D) | <ul style="list-style-type: none"> - Balangir (D) - Deogarh - Debagarh (D) - Malkangiri (D) - Nabarangapur (D) - Nuapada (D) - Rayagada (D) - Sonepur (D) |

¹⁵ Gol (2013b).

¹⁶ *ibid.*

¹⁷ Tribal Sub-Plans are not applicable to the tribal majority states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, or in the union territories of Lakshadweep and Dadra and Nagar Haveli, where tribals represent more than 60 per cent of the population, since the Annual Plan for these states is seen as a Tribal Plan in itself.

¹⁸ Gol (2013a).

| State | Scheduled Area* | | ITDPs/ ITDAs# | MADA# | Cluster# | PTGs# | Integrated Action Plan LWE Districts (All India = 60)^ | |
|--------------|--|--|------------------|-------|----------|-------|---|--|
| Jharkhand | - Ranchi (D) - Lohardaga (D) - Gumla (D) - Simdega (D) - Latehar (D) - East Singhbhum (D) - West Singhbhum (D) - Sarikela-Kharsawan (D) | - Sahebganj (D) - Dumka (D) - Pakur (D) - Jamtara (D) - Rabda, Bakoria (P) of Palamu (D) - Bhandaria (B) of Garhwa (D) - Sunderpahari, Boarjor (B) in Godda (D) | 14 | 34 | 7 | 13 | - Gumla - Simdega - Latehar - Purbi Singhbhum - Paschim Singhbhum - Palamu | - Garhwa - Bokaro - Chatra - Hazaribagh - Kodarma - Lohardaga - Ramgarh - Saraikela |
| Chhattisgarh | - Surguja (D) - Korla (D) - Bastar (D) - Dantewara (D) - Kanker (D) - Marwahi, Gorella-I, Gorella-II TBD in Bilaspur (D) | - Korba (D) - Jashpur (D) - Dharmjaigarh, Gharghoda, Tamnar, Lailunga, Kharsia (TBD) in Raigarh (D) - Dondi (TBD) in Durg (D) - Chauki, Mainpur, Chhura (TBD) in Raipur (D) - Nagri (TBD) in Dhamtari (D) | 19 | 9 | 2 | 13 | - Surguja - Koriya - Bastar - Dantewada - Kanker | - Jashpur - Bijapur - Kawardha - Narayanpur - Rajnandgaon |

*Key: D=district; T=Tahsil; B=Block; TBD=Tribal Development Block; P=Panchayat. Scheduled Areas in Odisha were initially specified in 1950, re-specified in 1977. Consequent upon the formations of the new states of Jharkhand (GoI, 2000a) and Chhattisgarh (GoI, 2000b), the original Scheduled Areas of Bihar and Madhya Pradesh of 1950 were transferred to these states, and re-specified in 2003, 2007 (Jharkhand) and 2003 (Chhattisgarh) (ibid.). Sixth Schedule areas in Assam were initially specified in 1950, and subsequently, in 2003.

ITDPs/ITDAs, MADA, Cluster and PTGs in Tribal Sub-Plan Areas, exist in 21 states and 2 Union Territories (Source: GoI, 2013a).

^ Note spelling inconsistencies between district names, for Scheduled Areas and IAP Areas, noted as in various official documents. Also, 22 new districts have been added to the original list, making it 82 districts in 9 states that fall under IAP – from the initial 60 mentioned here in 2010-11, to 78 in 2011-12, and then 82 in 2012-2013 (Source: GoI, 2012d).

Note in **Table 3.1** the high degree of overlap between areas delineated as Fifth Schedule Areas and Tribal Sub Plan Areas, with all development initiatives focused therein, and those demarcated as Integrated Action Plan “Left Wing Extremist” districts, that is, districts requiring aggressive ‘internal security’ response to violent resistance.

The funding allocation and disbursement formula for SCA to TSP areas is even more complicated but that is a digression¹⁹. To give the reader a rough sense of the amounts involved, **Table 3.2** sets out the state outlays for TSP; the release figures for SCA to TSP in 2012-13, and release figures for Special Area Programme Grant under Article 275 (1), for the states of Odisha, Jharkhand and Chhattisgarh. Jharkhand State Outlay for TSP far outweighs its percentage of ST population, while Odisha just exceeds it, and Chhattisgarh’s falls short of it.

19 This funding allocation and disbursement is divided between Category A states (those having “substantial areas predominantly inhabited by tribals”, for example, Chhattisgarh, Jharkhand and Odisha), and Category B states (those having “a dispersed tribal population, with some areas of tribal concentration”, for example, Assam). Total outlays for SCA are then determined on the basis of tribal population of states / UTs included in each group, with 70 per cent of disbursements to Category A states being on the basis of Scheduled Tribe population in ITDP / ITDA area, and 30 per cent on their geographical area. In Category B states, 100 per cent of the disbursement is on the basis of Scheduled Tribe population in MADA, Clusters and dispersed tribal populations, while 70 per cent of the disbursement to PTGs is based on the numerical size of the groups and 30 per cent according to number of PTGs in a specific state / UT.

Table 3.2: Funding for TSP by State, SCA, Grant under Article 275 (1), 2012-2013

| State | ST population (per cent) | State Outlay for TSP (₹ in Crore) | Per cent of TSP to (State) Annual Plan | Release of SCA to TSP (2012-2013 as on 31.12.2012) (₹ in Lakh) | Release of Special Area Programme Grant under Article 275 (1) (2012-2013 as on 31.12.2012) (₹ in Lakh) |
|--------------|--------------------------|-----------------------------------|--|--|--|
| Odisha | 22.1 | 4316.4 | 25.0 | 13321.0 | 11284.0 |
| Jharkhand | 26.3 | 8231.2 | 50.4 | 9140.3 | 7369.5 |
| Chhattisgarh | 31.8 | 7356.0 | 31.3 | 9478.0 | 5950.0 |
| India Total | 8.2 | NA | NA | 81129.4 | 75540.9 |

Source: Gol (2013a).

Under Article 275 (1), the Union Ministry for Tribal Affairs (bifurcated from the Ministry of Social Justice and Empowerment into a standalone ministry in 1999) provides grant-in-aid to tribal majority states as well as Tribal Sub-Plan states²⁰ for projects undertaken by the state governments towards administrative and welfare expenses of Scheduled Areas. The Ministry provides the entire grant, and the allocation is on the basis of the percentage of the Scheduled Tribe population in each state. The Eleventh Plan loosely articulates its focus on generation of community welfare assets, such as schools (for instance, the Eklavya Model Residential Schools for Classes VI to XII for Scheduled Tribe children, which critics call an integrationist attempt par excellence, as these young children are taken away from their families to be 'mainstreamed'), skilled teaching, nutritional support, drinking water, etc. However, unlike the SCA to TSP funds whose guidelines are stringent, this grant allows for states to exercise discretion in the purpose for which it is used. This often leads states using up these funds for their own expedient purposes, a Central government official communicated to us. Additionally, a lot of spending here is targeted at private sector provisioning of services (for example, matriculate education for Scheduled Tribes), where the government money often goes only to a meagre distance, benefiting fewer recipients for the same total amount spent.²¹

Due to numerous implementation failures plaguing the TSPs, on unsatisfactory allocation and concomitant spending, the Planning Commission set up a task force under Member Narendra Jadhav to review the guidelines for TSP from Central ministries/departments, with revised obligations for earmarking allocations from each (see **Table 3.3**). As can be seen, while some ministries and departments are obliged to retain and can even trump the population percentage requirement (the top five mentioned), others are excused (all the others, especially the last five mentioned). For example, under the new guidelines, the Ministry of Rural Development is required to earmark 17.5 per cent of their Plan Outlay to TSP, as opposed to the population requirement of 8.2 per cent. However, disregarding the Task Force guidelines, it still earmarks only 4.7 per cent in its Annual Plan of 2012-13 (ibid.). The logic as to which ministry and department is to allocate how much is fuzzy, but it appears to be a pragmatic assessment of how much they will actually spend and disburse, in relation to how much they allocate. The Task Force also suggested that the "[t]ribal Sub-Plans and Special Component Plans should be an integral part of Annual Plans, as well as Five Year Plans, making provisions therein non-divertible and non-lapsable, with the clear objective of bridging the gap in socio-economic development of the SCs and STs within a period of 10 years".²²

Table 3.3: Ministry/Department Obligated Earmarking and Allocation for Tribal Sub Plan (₹ in Crore)*

| Ministries/Departments required to earmark more than 8.2 per cent of their Plan Outlays under TSP [^] | Mandatory earmarking of funds under TSP by Ministry/Department set out by Planning Commission Task Force 2010 [^] (per cent) | Ministries/Department wise actual TSP Outlays as per Gross Budget Estimate Statement, Annual Plan 2012-2013, (₹ in Crore)# | Actual earmarking of funds under TSP by Ministry/Department as per Gross Budget Estimate Statement, Annual Plan 2012-2013# (per cent) |
|--|---|--|---|
| Ministry of Tribal Affairs | 100 | 1573 | 100 |
| Department of Rural Development | 17.5 | 3460.4 | 4.7 |
| Department of School Education and Literacy | 10.7 | 4918.7 | 10.7 |
| Department of Land Resources | 10 | 320.1 | 10 |

²⁰ A total of 26 states receive such grants from the Ministry of Tribal Affairs.

²¹ ibid.

²² Gol (2010b), p. 5.

| Ministries/Departments required to earmark more than 8.2 per cent of their Plan Outlays under TSP [^] | Mandatory earmarking of funds under TSP by Ministry/Department set out by Planning Commission Task Force 2010 [^] (per cent) | Ministries/Department wise actual TSP Outlays as per Gross Budget Estimate Statement, Annual Plan 2012-2013, (₹ in Crore) [#] | Actual earmarking of funds under TSP by Ministry/Department as per Gross Budget Estimate Statement, Annual Plan 2012-2013 [#] (per cent) |
|---|---|--|---|
| Department of Drinking Water and Sanitation | 10 | 1400 | 10 |
| Ministries/Departments required to earmark between 7.5 per cent to 8.2 per cent of their Plan Outlays under TSP | | | |
| Department of Health and Family Welfare | 8.2 | 2224.4 | 8.2 |
| Ministry of Women and Child Development | 8.2 | 1517 | 8.2 |
| Ministry of Youth Affairs and Sports | 8.2 | 85.6 | 8.2 |
| Ministry of Panchayati Raj | 8.2 | 17.4 | 5.8 |
| Ministry of Labour and Employment | 8.2 | 202.5 | 8.2 |
| Ministry of Coal | 8.2 | 31 | 6.9 |
| Ministry of Micro Small and Medium Enterprises | 8.2 | 139.5 | 4.9 |
| Department of Agriculture and Cooperation | 8 | 882.6 | 8 |
| Department of Higher Education | 7.5 | 1159.4 | 7.5 |
| Ministries/Departments required to do Partial Earmarking (less than 7.5 per cent of their Plan Outlays under TSP) – some examples | | | |
| Ministry of Mines | 4 | 8.7 | 3.6 |
| Department of Agriculture Research and Education | 3.6 | 116 | 3.6 |
| Ministry of Road Transport and Highways | 3.5 | 500 | 2.2 |
| Department of Food and Public Distribution | 1.4 | 4.1 | 3.2 |
| Ministry of Water Resources | 1.3 | 19.5 | 1.3 |

*Exclusive of SCA to TSP and Grants-in-aid under Article 275(1).

[^]Source: Gol (2010b).

[#]Source: Gol (2013a).

Finally, the other development programmes under TSP are funded from “institutional finance”, from the National Scheduled Tribes Finance and Development Corporation (NSTFDC), incorporated in 2001 as a Section 25 GOI company under the Union Ministry of Tribal Affairs. Its Board of Governors comprise representatives from the Central government, state channeling agencies, National Bank for Agriculture and Rural Development (NABARD), Industrial Development Bank of India (IDBI), Tribal Co-operating Marketing Federation of India Ltd., (TRIFED) and “eminent persons from Scheduled Tribes”.²³ NSTFDC gives concessional finance to “income-generating” and “skill and entrepreneurs” development schemes for the “economic development of the eligible Scheduled Tribes”,²⁴ through existing state/UT Scheduled Tribes Finance and Development Corporations and other routes.

An important issue, which we shall discuss in greater detail in chapter 5, in the context of certain institutional legislative reforms, is that of multiple nodal ministries and institutions responsible for the implementation of TSP, as well as other ‘development’ and ‘security’ initiatives for Fifth Schedule Areas (see Table 3.4). All programmes under TSP discussed

²³ Gol (2013a), p.116.

²⁴ *ibid.*, p. 116.

above fall under the Union Ministry of Tribal Affairs. Various other area-focused programmes, aspiring for ‘development’ of Scheduled Areas and/or the ‘security’ in Naxal/Left Wing Extremist (LWE) districts (many of which overlap, as we saw previously in Table 3.1) come under different Union ministries.

On ‘development’, there is also the Backward Regional Grant Fund (BRGF), a major initiative that commenced in 2006-07 within the Tenth Plan.²⁵ With a budget of roughly INR 5000 crore per year, it aims to select backward states, regions or districts based on some socio-economic criteria, and bring them on par with the rest of the nation/state (on the former, it emerged through personal communication with Central government officials that the state selection for BRGF grants has been mostly political and not by any objective yardstick criteria). The state component of BRGF, falling under the purview of Planning Commission of India covered Bihar, West Bengal, the eight poorest KBK (Kalahandi Balangir Koraput) districts of Odisha and the Integrated Action Plan (IAP) (more on IAP in chapter 6). The district component of BRGF, under the Union Ministry of Panchayati Raj, covers roughly 272 districts in 27 states.

On policies related to ‘(internal) security’, the Union Ministry of Home Affairs has the following programmes (apart from IAP discussed later, which technically falls under the Planning Commission but on which the Home Minister and the Ministry of Home Affairs is critical) for Left Wing Extremist (LWE) states/districts.²⁶ The Security Related Expenditure (SRE) Scheme funds “recurring expenditure related to the security forces, rehabilitation of LWE cadres who surrender in accordance with the surrender and rehabilitation policy of the state government concerned, community policing, security related expenditure for village defence committees (including paid village informers etc.) and publicity material”.²⁷ The ministry’s website doesn’t give any budget figures for this scheme. Under the Eleventh Plan, the Special Infrastructure Scheme (SIS) was introduced, with a budget of INR 500 crore. It caters to “critical infrastructure gaps, which cannot be covered under the existing schemes. These relate to requirements for the mobility for the police/security forces by upgrading existing roads/tracks in inaccessible areas, providing secure camping grounds and helipads at strategic locations to remote and interior areas, measures to enhance security in respect of police stations/outposts located in vulnerable areas etc”.²⁸

Further, under the Union Ministry of Home Affairs, phase I of the Road Requirement Plan (RRP) for LWE areas, INR 7300 crore was approved in 2009, to improve “road connectivity in 34 extremely LWE effected districts in 8 states viz. Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Uttar Pradesh”.²⁹ There is also a Scheme of Fortified Police Stations “sanctioning 400 police stations in 9 LWE affected states at a unit cost of INR 2 crore”.³⁰ Lastly, there is the Central scheme for assistance to civilian victims of “terrorist, communal and Naxal violence”³¹ and their families, to the tune of INR 3 lakh per family (in addition to the INR 1 lakh given to security personnel’s family under SRE scheme).

Table 3.4: Salient Policy Shifts and Programmes in Fifth Schedule Areas on ‘Development’ and/or ‘Internal Security’

| Five Year Plan Period | Approach/ Policies | Policy/Programme Focus | Nodal Union Ministries |
|---------------------------------------|--|---------------------------------------|--|
| 2 nd Plan Period (1956-61) | A shift from isolationist to integrationist agenda—Establish 43 Special Multi-Purpose Tribal Blocks (SMPTBs), later called Tribal Development Blocks (TBDs). | ‘Development’ | Union Ministry of Tribal Affairs / its equivalent previously (as only formed in 1999) Ministry of Social Justice and Empowerment |
| 3 rd Plan Period (1961-66) | Block-focused ‘development’ approach continues. | ‘Development’ | Union Ministry of Tribal Affairs/ its equivalent previously |
| 4 th Plan Period (1969-74) | Block-focused ‘development’ approach continues. Set up six pilot projects, as Central Sector Schemes, with primary objective of combating LWE. | ‘Development’ and ‘internal security’ | Union Ministry of Tribal Affairs/ its equivalent previously |

²⁵ The Backward Regional Grant Fund (BRGF) replaced the Rashtriya Sam Vikas Yojana (RSVY), which had previously identified backward districts for catch-up development, and was also administered by the Planning Commission. It was supposed to phase out in 2006-07 and was therefore, replaced by the BRGF.

²⁶ Gol (2013d).

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ *ibid.*

³⁰ *ibid.*

³¹ *ibid.*

| Five Year Plan Period | Approach/ Policies | Policy/Programme Focus | Nodal Union Ministries |
|--|---|------------------------------|---|
| 5 th Plan Period (1974-79) | (Backward) Tribal Sub-Plan Areas are introduced, replace Block-focused 'development'. Expansion of infrastructure and increased coverage of beneficiary-oriented programmes to Schedule Areas and other areas where tribal population were preponderant. | 'Development' | Union Ministry of Tribal Affairs/ its equivalent previously |
| 10 th Plan Period (2002-07) | Backward Region Grant Fund - Bring up 'backward' states/regions/ districts, on par with nation/state. | 'Development' | Planning Commission of India |
| 11 th Plan (2007-12) | Integrated Action Plan – provide public infrastructure and services, but also security, to LWE districts. | 'Development' and 'security' | Planning Commission of India |
| 11 th Plan (2007-12) | Security Related Expenditure (SRE) Scheme – upkeep of security forces, rehabilitation of surrendered LWE cadres, community policing, village defence committees, publicity material. | 'Security' | Union Ministry of Home Affairs |
| 11 th Plan (2007-12) | Special Infrastructure Scheme (SIS) – critical infrastructure for mobility for the police/security forces by upgrading existing roads/tracks in inaccessible areas, providing secure camping grounds and helipads at strategic locations to remote and interior areas, measures to enhance security in respect of police stations/outposts located in vulnerable areas etc. | 'Security' | Union Ministry of Home Affairs |
| 11 th Plan (2007-12) | Phase I of the Road Requirement Plan (RRP) to better road connectivity in 34 "extremely LWE effected districts". | 'Security' | Union Ministry of Home Affairs |

To sum up the policies of the post-colonial State, it is evident that it continues to display much confidence, both on paper and in purpose, in locating concentrated populations of isolated Scheduled Tribes for concerted developmental outlay. This is evident from the reports of the Ministry of Tribal Affairs: "The Scheduled Tribes live in contiguous areas, unlike other communities. It is, therefore, much simpler to have an area approach for development activities as well as regulatory provisions to protect their interests."³² Empirically, however, according to the National Advisory Council, an estimated 50-70 per cent of adivasis live in areas not covered by the Fifth Schedule³³. No wonder then, in practice, as seen by the chronologically subtle but bafflingly complex attempts explored above, to drill down to ever narrower and smaller area concentrations to target more precisely the group of tribes identified as being Scheduled Tribes, subsumed by and intermingled with ever present others, has been a failure, based as it is on a structurally neat but false premise.

It is seen that, in terms of the State's vision of the tribal population and its engagement with the adivasis, the post-colonial State picks up right from the point where the imperial power left off, similarly identifying Scheduled Tribes and Scheduled Areas, with a view to bringing them 'on par' with the rest of the population of the country. Both the colonial and the post-colonial States engage with the tribal population at two levels: ethnicity and area. Written into this exercise of constructing and codifying rigid categories, in terms of the definitions and yardsticks chosen, is the vision of the tribal population as an entity that is different from the dominant populace—an entity that needs to be defined, mainstreamed and developed through the intervention of the State. Further, as seen in this chapter, the 'developmental' vision of the post-colonial State has morphed seamlessly and increasingly over time into the 'internal security' question. This calls for an analysis of how the State's 'development' agenda is linked to the political movements and the continued and embedded violence seen in the tribal areas. We turn next to examine how successful the Indian State has been in bringing the Scheduled Tribes 'on par' with the rest of the country, in terms of various development indices, after 65 years of this endeavour.

³² Gol (2013a), p. 39.

³³ Choudhury (2013).



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CHAPTER 4

UNPACKING 'DEVELOPMENT': THE CONDITION OF SCHEDULED TRIBES OF INDIA

The Scheduled Tribes have historically been—and continue to be—the most likely victims of exclusion, marginalisation and dispossession in India, despite—and often, because of—development interventions by the post-colonial Indian State. In both pre-liberalisation and post-liberalisation periods in independent India, the tribal groups have been subjected to forced displacement from their territories, dispossession of their traditional rights to resources, and the erosion of their autonomy. In this section, we sketch a basic empirical profile of the position of Scheduled Tribes vis-à-vis other social groups in India, regarding their material and well-being indicators. While most of the analysis in this report has been done at an all-India level, in this section we also provide a few trends on the well-being of the tribal population in a few major states housing substantial share of tribal population, e.g., Chhattisgarh, Jharkhand and Odisha.

4.1 POVERTY INCIDENCE

In **Table 4.1**, we present poverty rates, calculated using the Tendulkar poverty line, for different social groups for three different time points.¹ At the aggregate level, taking into account both rural and urban areas, the rate of decline in poverty is much sharper between 2004-05 and 2009-10, compared to the period between 1993-94 and 2004-05.² Thorat and Dubey, using the 'old official poverty line' (Lakdawala poverty line), also find sharper fall in the latter period.³ The higher decline in poverty rate during the period 2005-05 to 2009-10 is true for all social groups and has usually been attributed to the higher rate of economic growth in India during the period.⁴

Table 4.1: Poverty Rates by Social Groups and Sector

| Social Groups | Population below the Tendulkar line (per cent) | | |
|---------------|--|----------|-----------|
| | 1993- 94 | 2004- 05 | 2009 – 10 |
| Rural | | | |
| ST | 65.9 | 62.3 | 47.4 |

1 Panagariya and More (2013).

2 Thorat and Dubey (2013).

3 *ibid.*

4 Panagariya and More (2013) also consider data for the year 2011-12. They argue that the 66th Round NSSO data for 2009-10 produced certain anomalies at the level of states as well as for specific social and religious groups. By taking into account figures for 2011-12 from the 68th Round of NSSO data, they claim that such anomalies can be avoided. If Panagariya and More are correct, then, over the period 2004-05 to 2011-12, percentage of people below poverty line among STs declined by 17 percentage points, among SCs by 21.5 percentage points, among OBCs by 17.1 percentage points and among FCs by 10.5 percentage points. Thus, rate of decline in poverty among STs was lowest among all social groups except FCs, but the latter had far lower poverty rate in 2004-05 compared to STs. Thus our main argument is strengthened further if we take into account 2011-12 data instead of 2009-10 data. However, since most of the existing studies on STs use data till 2009-10, we have ignored the 2011-12 data in the table for comparability with other similar tables in this chapter.

| Social Groups | Population below the Tendulkar line (per cent) | | |
|---------------|---|---------|---------|
| | 2009-10 | 2004-05 | 1993-94 |
| SC | 62.4 | 53.5 | 42.3 |
| OBC | 44.0 | 39.8 | 31.9 |
| FC | | 27.1 | 21.0 |
| All | 50.3 | 41.8 | 33.3 |
| Urban | | | |
| ST | 41.1 | 35.5 | 30.4 |
| SC | 51.7 | 40.6 | 34.1 |
| OBC | 28.2 | 30.6 | 24.3 |
| FC | | 16.1 | 12.4 |
| All | 31.9 | 25.7 | 20.9 |
| Rural + Urban | | | |
| ST | 63.7 | 60.0 | 45.6 |
| SC | 60.5 | 50.9 | 40.6 |
| OBC | 39.5 | 37.8 | 30.0 |
| FC | | 23.0 | 17.6 |
| All | 45.7 | 37.7 | 29.9 |

Source: Panagariya and More (2013), pp. 6-7.

According to the Tendulkar line, the percentage of population below poverty line in rural areas in 2009-10 was highest for Scheduled Tribes (STs)—at 47.4 per cent—among all social groups. This is 5 percentage points higher than scheduled castes (SCs), the social group with the second highest incidence of poverty (42.3 per cent), 15 percentage points higher than other backward castes (OBCs, 31.9 per cent) and 26 percentage points higher than forward castes (FCs, 21 per cent). Thus, even by the standards of a poverty line that has been criticised for setting too low a floor for poverty, almost half of the ST population in rural areas was poor in 2009-10. Comparison with other groups shows that the rate of decline in rural poverty among STs was the lowest among all social groups in the period from 1993-94 to 2004-05, but highest among all social groups in the period from 2004-05 to 2009-10. This finding is borne out even if the old official (Lakdawala) poverty line is used, as shown by Thorat and Dubey.⁵ However, the higher rate of decline in rural poverty for the STs (as well as for the SCs) in the second period, i.e., from 2004-05 to 2009-10, does not brighten the picture much if one keeps in mind that the poverty levels were much higher for STs and SCs earlier compared to those of OBCs and FCs. Given the higher initial poverty levels, the faster rates of decline for STs and SCs were only natural. Further, if one looks at the entire period between 1993-94 and 2009-10, the decline in rural poverty for the STs is not as impressive, compared with the other social groups (and lower than the decline for the SCs).⁶

In urban areas, as per the new Tendulkar poverty line, poverty rate among STs for India as a whole was 30.4 per cent in 2009-10, lower than SCs at 34.1 per cent, but higher than OBCs at 24.3 per cent and FCs at 12.4 per cent. Interestingly, urban poverty fell faster for SCs and STs in the period from 1993-94 to 2004-05 compared to the period from 2004-05 to 2009-10, even though the growth rate was higher in the latter. This points to the fact that forces other than growth have significantly impacted poverty outcomes.

Thorat and Dubey working with the Lakdawala poverty line, decomposed the change in poverty head count ratio into growth and distribution effects for the two periods, 1993-94 to 2004-05, and 2004-05 to 2009-2010.⁷ Considering the ST population in rural areas, during the first period, the distributional effect worked against the growth effect on poverty, leading to a lower magnitude of fall in poverty than what would have been obtained if the adverse impact of distribution did not offset some of the poverty-reducing impact of growth. In the second period, the distributional effect reinforced the growth effect, leading to a larger fall in poverty for STs than what would have been obtained solely due to growth. For the urban ST population, the distributional effect worked against the growth effect on poverty in both the periods, but the magnitude of the positive growth effect was smaller and that of the adverse distribution effect was larger in the second period, leading to a lower reduction in poverty in the second period.

5 In terms of rural livelihood categories, the rural wage labour households among the STs have experienced the lowest annual decline in poverty (by the Lakdawala poverty line) between 1993-94 and 2009-10, as well as in the sub-periods 1993/94-2004/05 and 2004/05-2009/10 [Thorat and Dubey (2013) Tables 2, A5 and A6]. This is true for both agricultural and rural nonagricultural wage labour households, though the former fared much worse compared to the latter. This trend is common among almost all the social groups, possibly pointing to the effects of agrarian distress as well as general wage depression in this period.

6 In-depth primary field research and village-level studies are needed to ascertain the causes for the faster rates of decline in poverty among the the STs between 2004-05 and 2009-10, and to find out whether this was a sustainable phenomenon or just a temporary – though welcome – happenstance.

7 Thorat and Dubey (2013).

The poverty rates among STs in 2009-10 in some states with substantial ST population, e.g., in Chhattisgarh, Jharkhand and Odisha, are even higher than the all-India figures, as shown in Table 4.2. The majority of the ST population in rural areas in the three states are below the poverty line: in Jharkhand, more than half (51 per cent) of these people are below the poverty line, and in Chhattisgarh and Odisha, two-thirds of their population (66.⁸ per cent and 66 per cent respectively) live under the poverty line. The corresponding figures for urban poverty rate among STs are: Jharkhand – 49.5 per cent, Chhattisgarh – 28.6 per cent, and Odisha – 34.1 per cent. Except for Jharkhand, the rural-urban disparity in poverty rate is quite striking for the other two states—rural poverty is higher than urban poverty by about 38 percentage points in Chhattisgarh, and by about 32 percentage points in Odisha. Between 1993-94 and 2009-10, while both rural and urban poverty for STs declined by a substantial amount in both Jharkhand and Odisha. In Chhattisgarh there was an increase in both rural and urban poverty rates in the period (with urban poverty increasing by 10 percentage points, from 18.6 per cent to 28.6 per cent, at a time when there was a fall in urban poverty by 5 percentage points for all other groups). However, even in Jharkhand and Odisha, the total decline in poverty for STs between 1993-94 and 2009-10 is less than in other social groups, leading to an increase in disparity in an already unequal situation.

Table 4.2: Poverty among STs in Chhattisgarh, Jharkhand and Odisha, 1993-94 to 2009-10

| States | Scheduled Tribes (STs) | | | All groups | | |
|---------------|------------------------|---------|---------|------------|---------|---------|
| | 1993-94 | 2004-05 | 2009-10 | 1993-94 | 2004-05 | 2009-10 |
| Rural | | | | | | |
| Chhattisgarh | 66.1 | 65.5 | 66.8 | 56.0 | 55.1 | 56.1 |
| Jharkhand | 72.6 | 60.6 | 51.0 | 65.9 | 51.6 | 41.4 |
| Odisha | 82.2 | 84.4 | 66.0 | 63.2 | 60.8 | 39.2 |
| All India | 65.9 | 62.3 | 47.4 | 50.3 | 41.8 | 33.3 |
| Urban | | | | | | |
| Chhattisgarh | 18.6 | 32.7 | 28.6 | 28.4 | 28.4 | 23.6 |
| Jharkhand | 56.6 | 47.2 | 49.5 | 41.8 | 23.8 | 31.0 |
| Odisha | 58.1 | 53.4 | 34.1 | 34.8 | 37.6 | 25.9 |
| All India | 41.1 | 35.5 | 30.4 | 31.9 | 25.7 | 20.9 |
| Rural + Urban | | | | | | |
| Chhattisgarh | 64.2 | 62.9 | 65.0 | 51.2 | 51.0 | 50.3 |
| Jharkhand | 71.2 | 59.8 | 50.9 | 61.2 | 47.2 | 39.3 |
| Odisha | 80.6 | 82.8 | 62.7 | 59.5 | 57.6 | 37.3 |
| All India | 63.7 | 60.0 | 45.6 | 45.7 | 37.7 | 29.9 |

Source: Panagariya and More (2013), pp. 37-39 (Tables A1, A2, and A3).

Table 4.3 provides average monthly per capita expenditure (MPCE) at 1999-2000 prices for STs, SCs and others, including OBCs. We have indicated annual rate of increase in average MPCE for each social group over a period in parentheses below the corresponding absolute figures for average MPCE for the groups at the end-point of the period. We have also indicated the ratios of urban to rural average MPCE for each social group in parentheses below the figures in the column for total population. If we compare the rural populations from Table 4.2, we see that annual rate of increase in average MPCE for ST for the period 1993-94 to 2004-05 is lower than SCs and others in the period 1993-94 to 2003-04, but substantially higher than both the groups in the period 2004-05 to 2009-10. Since consumption expenditure is a proxy for income, there has been a substantial catching up with SCs and others by the STs in the latter period, despite the fact that average MPCE for both SCs and others grew at a slightly higher rate in the latter compared to the former period.

There is marked difference in the incidence of poverty among STs between rural and urban areas. We have seen that at the level of some individual states with high concentration of ST population. At the all-India level, we can see from Table 4.1 that that the rural poverty rate is 17 percentage points higher than urban poverty rate among STs in 2009-10. This is highest among all social groups; the corresponding figures for SCs, OBCs and FCs are 8.2, 7.6 and 8.6 respectively. From Table 4.3, we see that ratio of average urban to average rural MPCE is highest for STs for all the years and the ratio has increased faster for STs compared to other groups over time.

Table 4.3: MPCE at 1999–2000 Prices by Social Groups and Sector

| Social Groups | 1993–94 | | | 2004–05 | | | 2009–10 | | |
|---------------|---------|-------|---------------|--|--|---------------|--|--|---------------|
| | Rural | Urban | Total (Ur:Ru) | Rural (annual rate of change for 1993–94 to 2004–05) | Urban (annual rate of change for 1993–94 to 2004–05) | Total (Ur:Ru) | Rural (annual rate of change for 2004–05 to 2009–10) | Urban (annual rate of change for 2004–05 to 2009–10) | Total (Ur:Ru) |
| ST | 375.6 | 615.5 | 397.1 (1.64) | 396.3 (0.5) | 736.9 (1.8) | 425.5 (1.86) | 455.4 (3.0) | 919.8 (5.0) | 504.6 (2.02) |
| SC | 379.5 | 557.6 | 411.2 (1.47) | 434.5 (1.3) | 643.7 (1.4) | 476.8 (1.48) | 470.0 (1.6) | 724.8 (2.5) | 521.2 (1.54) |
| Others | 480.1 | 779.1 | 566.1 (1.62) | 552.4 (1.4) | 949.7 (2.0) | 666.6 (1.72) | 598.7 (1.7) | 1091.0 (3.0) | 751.7 (1.82) |
| All | 447.6 | 743.4 | 521.2 | 511.2 | 895.6 | 608.5 | 554.6 | 1029.9 | 683.2 |

Source: Based on Thorat and Dubey (2013), p. 35 (Table A4).

4.2 INEQUALITY IN INCOME, WEALTH AND ACCESS TO LAND AND OTHER ASSETS

Table 4.4 looks at the distribution of households across size-classes of land possessed. Households with marginal landholdings dominate all social groups and their share increased between 2003–04 and 2009–10. Moreover, even among the marginal size-class of land-holdings, the smaller size-classes increased their share relative to the largest size-class of land between 2004–05 and 2009–10. Thus, like all other social groups, there is a movement towards increasingly uneconomic land-holdings by ST populations.

Table 4.4: Number of Households by Size of Land Possessed – Rural (per cent)

| Size of land possessed | India | | | | | | | |
|------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| | ST | | SC | | OBC | | Others | |
| | 2004–05 | 2009–10 | 2004–05 | 2009–10 | 2004–05 | 2009–10 | 2004–05 | 2009–10 |
| <0.01 | 20.39 | 23.26 | 33.65 | 34.46 | 22.36 | 23.36 | 17.05 | 17.99 |
| 0.01–0.40 | 22.14 | 25.52 | 39.80 | 41.59 | 32.08 | 34.93 | 32.80 | 37.17 |
| 0.41–1.00 | 25.90 | 23.43 | 15.84 | 14.07 | 20.65 | 19.10 | 19.69 | 17.38 |
| Marginal (< 1 ha) | 68.43 | 72.21 | 89.29 | 90.11 | 75.09 | 77.39 | 69.53 | 72.54 |
| Small (1–2 ha) | 17.46 | 16.80 | 6.90 | 5.81 | 13.25 | 12.36 | 14.33 | 13.16 |
| Semi-Medium (2–4 ha) | 11.27 | 8.53 | 2.70 | 3.22 | 7.98 | 7.12 | 10.35 | 8.73 |
| Medium+Large (4+ ha) | 2.84 | 2.46 | 1.09 | 0.85 | 3.70 | 3.13 | 5.79 | 5.57 |
| All Size-classes | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 |

Source: Gol (2007) (Tables A–75, 77, 84, 93, 108) and Gol (2012a) (Tables A–93, 95, 102, 111, 126).

From **Table 4.4**, it appears that within-group distribution of households by size-classes of land-holdings among STs is moving in the same direction as that of other social groups. This broad picture hides an important fact that household assets including land are unequally distributed between social groups as **Table 4.5** clearly shows. The access index is calculated as the ratio of the percentage of total assets held by a social group to the percentage share of that social group in the total number of households. If the value of access index for a particular social group is less than 1, then the distribution of assets is unfavourable to that social group and vice versa.

Table 4.5: Distribution of Households of Assets and Households by Social Groups, 2002-03

| Social Group | Per Cent of Households | Per Cent of Assets Owned | Access Index |
|--------------|------------------------|--------------------------|--------------|
| Rural | | | |
| ST | 22.0 | 10.4 | 0.47 |
| SC | 10.2 | 5.2 | 0.51 |
| OBC | 41 | 41.1 | 1.00 |
| Others | 26.7 | 43.1 | 1.60 |
| Urban | | | |
| ST | 14.6 | 6.4 | 0.44 |
| SC | 2.9 | 1.7 | 0.57 |
| OBC | 34.7 | 27.8 | 0.80 |
| Others | 47.7 | 64.1 | 1.34 |

Source: Gol (2011a), p. 108 (Table 3.20).

This is also brought out clearly from a different data source. From three rounds of National Family Health Survey (1992-93, 1998-99 and 2005-06)⁹, the distribution of ST and non-ST population by wealth index (calculated on the basis of ownership of assets) is presented in Table 4.6. The share of STs in population belonging to lowest decile of wealth index was 22.3 per cent in 1993, which increased to 25.1 per cent in 2005. The share of STs in population belonging to the highest decile of wealth index remained unchanged between 1993 and 2005 at 1.7 per cent, with a marginal drop to 1.5 per cent in 1998. As far as the distribution of ST population by wealth index is concerned, 25.3 per cent of ST population was in the lowest wealth decile and 2 per cent in the highest wealth decile in 1993. In 2005, 29.7 per cent of the ST population was in the lowest wealth decile and 2.1 per cent in the highest decile.

The situation seems direr for the STs if we look at the wealth quintiles (dividing the population into five groups in terms of wealth) rather than the deciles. The share of STs in population in the lowest quintile consistently increased from 35.5 per cent in 1993 (22.3 per cent in the poorest decile and 13.2 per cent in the 2nd decile) to 36.5 per cent in 1998 (21.7 per cent in the poorest decile and 14.8 per cent in the next decile), and then sharply to 41.8 per cent in 2005 (25.1 per cent in the poorest decile and 16.7 per cent in the 2nd decile). More strikingly, in terms of distribution of ST population across wealth quintiles, almost half of the ST population (49.5 per cent) belonged to the lowest quintile in 2005 (29.7 per cent of ST population in the poorest decile and 19.8 per cent in the 2nd decile)—a situation markedly worse than 1993, when 40.2 per cent belonged to the lowest quintile (25.3 per cent in the poorest decile and 14.9 per cent in the next decile). Further, in the same period (1993-2005), the distribution of ST population in the highest wealth quintile has remained almost same (5.4 per cent in 1993 and 5.2 per cent in 2005), indicating an increase in wealth inequality among the STs in this period.

Table 4.6: Proportion and Distribution of STs in Wealth Deciles, 1993-2005

| Deciles | Percentage share of STs in population (per cent) by deciles | | | Distribution of ST population (per cent) across deciles | | |
|----------------|---|------|------|---|------|------|
| | 1993 | 1998 | 2005 | 1993 | 1998 | 2005 |
| Poorest decile | 22.3 | 21.7 | 25.1 | 25.3 | 24.5 | 29.7 |
| 2 | 13.2 | 14.8 | 16.7 | 14.9 | 16.7 | 19.8 |
| 3 | 10.6 | 11.8 | 12.0 | 12.0 | 13.4 | 14.2 |
| 4 | 10.8 | 12.3 | 8.1 | 12.2 | 13.9 | 9.6 |
| 5 | 9.9 | 9.1 | 6.5 | 11.3 | 10.2 | 7.7 |
| 6 | 8.1 | 6.1 | 4.8 | 9.1 | 6.9 | 5.7 |
| 7 | 5.2 | 5.2 | 3.7 | 5.9 | 5.9 | 4.4 |
| 8 | 3.5 | 3.4 | 3.1 | 4.0 | 3.9 | 3.7 |
| 9 | 3.0 | 3.1 | 2.7 | 3.4 | 3.5 | 3.1 |
| Richest decile | 1.7 | 1.5 | 1.7 | 2.0 | 1.7 | 2.1 |

Source: World Bank (2011), p. 44. (Table 2.3).

In terms of income inequality, Table 4.7 shows Gini coefficients (measuring intra-group inequalities, i.e., inequality within each social group) calculated from NSS Consumption Expenditure Survey for the respective years. Rural inequality in

income remained unchanged for STs and SCs between 1993-94 and 2009-10, while for others it increased from 0.30 to 0.32. When it comes to urban inequality, however, there is a sharp divergence between SCs and STs. While urban inequality has gone down for SCs, it has sharply increased for urban STs from 0.34 to 0.39, more than the increase for others.

Table 4.7: Gini Coefficient by Social Group and Sector

| Social Groups | 1993-94 | | | 2009-10 | | |
|---------------|---------|-------|-------|---------|-------|-------|
| | Rural | Urban | Total | Rural | Urban | Total |
| ST | 0.28 | 0.34 | 0.30 | 0.28 | 0.39 | 0.32 |
| SC | 0.26 | 0.34 | 0.30 | 0.26 | 0.33 | 0.29 |
| Others | 0.30 | 0.36 | 0.35 | 0.32 | 0.40 | 0.38 |
| All | 0.30 | 0.36 | 0.35 | 0.31 | 0.40 | 0.37 |

Source: Thorat and Dubey (2013), p. 18, (Table 7).

4.3 HEALTH AND EDUCATION

Now we turn to other development indicators, particularly health and education, among the Scheduled Tribes. Table 4.8 shows that the incidence of malnourishment, measured in terms of percentage of population with Body Mass Index (BMI) below 18.5, is more severe among STs than any other social groups, both for men and women. For 2005-06, it is seen that 41.3 per cent of ST men and 46.6 per cent of ST women were malnourished, the highest incidences of malnourishment for males and females respectively among all social groups. This trend is replicated at the state level for Chhattisgarh, Jharkhand and Odisha (except for the proportion of male malnourishment in Odisha, which is highest for the SCs followed by the STs). The table also shows that in these states, the incidence of malnourishment among ST women (50.3 per cent for Chhattisgarh, 47.2 per cent for Jharkhand and 51.3 per cent for Odisha) is higher compared to the national figures for ST women, with more than half of ST women in Chhattisgarh and Odisha being malnourished. According to the National Family Health Survey (NFHS), the proportion of malnourished women among the STs at the all-India level has remained more or less the same between 1998-99 and 2005-06, even though the proportions for the entire population improved over the same period, leading to increased inequality and divergence in terms of health outcomes between the STs and the rest of the population.

Table 4.8: ST Population with BMI < 18.5, 2005-06 (per cent)

| States | SC | | ST | | OBC | | Others | |
|--------------|------|--------|------|--------|------|--------|--------|--------|
| | Male | Female | Male | Female | Male | Female | Male | Female |
| Chhattisgarh | 40.9 | 38.4 | 41.5 | 50.3 | 38.7 | 44.4 | 28.7 | 26.8 |
| Jharkhand | 41.1 | 39.2 | 42.1 | 47.2 | 39.9 | 45.7 | 26.6 | 32.8 |
| Odisha | 44.8 | 50.8 | 38.9 | 51.3 | 33.9 | 39.3 | 28.6 | 31.7 |
| India | 39.1 | 41.1 | 41.3 | 46.6 | 34.6 | 35.7 | 28.9 | 29.4 |

Source: IIPS (2007), vol. 1.

A similar story of malnutrition among ST women emerges when the percentages of women with anaemia for these states are considered, and compared with the national averages for 1998-99 and 2005-06, as shown in **Table 4.9**. The health situation of ST women in these states is far worse compared to the corresponding all-India figures, as well as compared to the situation of other social groups within each state. For example, in 2005-06, it was seen that 68.5 per cent of tribal women at an all-India level suffered from anaemia, the highest incidence among all social groups (the corresponding all-India figures for women from SC, OBC and other social groups were 58.3 per cent, 54.4 per cent and 51.2 per cent respectively). However, in the same year, even much higher proportion of tribal women suffered from anaemia in Chhattisgarh, Jharkhand and Odisha—the levels being alarmingly high for these states (74 per cent, 85 per cent and 73.8 per cent). Also, within each of these states, the incidence of anaemia was significantly higher for the STs compared to other social groups (e.g., in Odisha in 2005-06, it was higher by 9.6 percentage points from that of the SCs, by 15.2 percentage points from that of the OBCs and 20.4 percentage points than that of the other social groups). Further, the rate of decline in the percentage of women with anaemia between 1998-99 and 2005-06 for the STs in each of these states has been the lowest compared to other social groups. For example, the decline in Chhattisgarh among the ST women was by 1.2 percentage points, whereas it was 16.9 percentage points for SCs, 13.1 percentage points for OBCs, and 16.3 percentage points for other social groups. This has led to divergence and higher inequality in terms of health outcomes for women between the STs and other social groups in these states.

Table 4.9: Women with Anaemia by Social Groups, 1998-99 and 2005-06 (per cent)

| States | SC | | ST | | OBC | | Others | |
|--------------|---------|---------|---------|---------|---------|---------|---------|---------|
| | 1998-99 | 2005-06 | 1998-99 | 2005-06 | 1998-99 | 2005-06 | 1998-99 | 2005-06 |
| Chhattisgarh | 68.8 | 51.9 | 75.2 | 74 | 65.1 | 52 | 58.8 | 42.5 |
| Jharkhand | 75.5 | 72.6 | 85.6 | 85 | 67.8 | 64.3 | 59.8 | 57.6 |
| Odisha | 66.3 | 64.2 | 74.7 | 73.8 | 61.3 | 58.6 | 54.4 | 53.4 |
| India | 56 | 58.3 | 64.9 | 68.5 | 50.7 | 54.4 | 47.6 | 51.2 |

Source: Gol (2011a), p.274.

Table 4.10 shows the infant mortality rates and under-five mortality rates at all-India levels for STs and other social groups for the years 1998-99 and 2005-06. It is seen that in terms of the infant mortality rates, the condition among the STs (with a rate of 62.1 per 1000 live births in 2005-06) is somewhat better than the SCs (with a rate of 66.4 per 1000), but worse than that of the OBCs (56.6 per 1000) and other social groups (48.9 per 1000). However, the STs fare much worse on under-five mortality rates than any other social groups, including the SCs. While the under-five mortality rate for ST children was 95.7 per 1000, the corresponding rates for SCs was 88.1, that for OBCs was 72.8, and for other social groups it was 59.2. A comparison of the under-five mortality rate figures between 1998-99 and 2005-06 shows that the rates declined over the period for all social groups at more or less similar pace, and hence the STs failed to catch up with the other social groups over the period.

Table 4.10: Infant and Under-Five Mortality Rates among Social Groups, 1998-99 and 2005-06

| | SC | | ST | | OBC | | Others | |
|------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| | 1998-99 | 2005-06 | 1998-99 | 2005-06 | 1998-99 | 2005-06 | 1998-99 | 2005-06 |
| Infant Mortality Rate | 83 | 66.4 | 84.2 | 62.1 | 76 | 56.6 | 61.8 | 48.9 |
| Under-5 Mortality Rate | 119.3 | 88.1 | 126.6 | 95.7 | 103.1 | 72.8 | 82.6 | 59.2 |

Source: Gol (2011a), p. 281 and 285.

Moving over to the indicators in terms of education, it comes as no surprise that the overall story of tribal deprivation continues to hold in this regard as well, especially in rural areas. As seen in **Table 4.11**, the literacy rates for the ST population, both for males and females, are lowest (69.3 per cent and 47.8 per cent respectively) among all social groups in rural India. The overall literacy rate for the STs in rural areas (58.8 per cent) is lower than the rural Indian level by more than 8 percentage points. However, in the urban areas, the condition of the STs in this regard is somewhat better than that of the SCs, even though they fare worse than the OBCs and other social groups and the all-India urban figures.

Table 4.11: Literacy Rates in India among Different Social Groups (2007-08)

| Social Group | Rural | | | Urban | | |
|--------------|-------|--------|-------|-------|--------|-------|
| | Male | Female | Total | Male | Female | Total |
| ST | 69.3 | 47.8 | 58.8 | 86.0 | 69.0 | 78.0 |
| SC | 70.6 | 49.9 | 60.5 | 83.1 | 66.1 | 74.9 |
| OBCs | 77.7 | 55.4 | 66.7 | 88.3 | 74.6 | 81.7 |
| Others | 84.6 | 68.8 | 76.9 | 93.8 | 85.5 | 89.9 |
| All | 77 | 56.7 | 67 | 89.9 | 78 | 84.3 |

Source: Gol (2011a), pp. 348-353.

Table 4.12 shows the proportion of children between the ages of six and 17 who were out of school in 2007-08 all over India, as well as in the states of Chhattisgarh, Jharkhand and Odisha. Here again the ST children are in a much worse situation in terms of their ability to attend school in the all-India level as well as in each of these states, for boys as well as for girls (except for Chhattisgarh where the proportion of out of school male ST children is roughly the same as that of the out of school male children of other social groups). At the all-India level, the proportion of out of school ST children is higher than of the other social groups by more than 5 percentage points. Among the three states, the widest disparity is seen in terms of the proportion of out of school girl children in Odisha, where about 42 per cent ST girls were out of school, whereas the corresponding figure for other social groups was about 29 per cent.

Table 4.12: Out of School Children (6 to 17 years) by Social Groups, 2007–08

| States | ST | | | All | | |
|--------------|------|-------|---------|------|-------|---------|
| | Boys | Girls | Persons | Boys | Girls | Persons |
| Chhattisgarh | 13.4 | 24.4 | 18.6 | 13.6 | 19.8 | 16.5 |
| Jharkhand | 26.4 | 25.6 | 26 | 19.8 | 21.9 | 20.8 |
| Orissa | 28.7 | 41.5 | — | 21.7 | 28.9 | 25.2 |
| India | 21.7 | 28.4 | 24.8 | 16.9 | 21.8 | 19.2 |

Source: Gol (2011a), pp. 369–70, (Table 6A.14).

Table 4.13 shows the school dropout rates for classes I to X in 2010–11 in India for different social groups. It is again seen that the dropout rates are far higher for the ST children, for both boys and girls, than for children from other social groups. More than one-third of ST children (35.6 per cent) drop out of school by class V (the corresponding figures are 26.7 per cent for SCs and 27 per cent for all social groups), more than half ST children (55 per cent) drop out by class VIII (corresponding figures are 43.3 per cent for SCs and 40.6 per cent for all), and more than seven out of 10 ST children (70.9 per cent) drop out by class X (the corresponding figures being 56 per cent for SCs and 49.3 per cent for all).

Table 4.13: Level-Wise Dropout Rates in School Education in India, 2010–11 (per cent)

| Level | ST | | | SC | | | ALL | | |
|--------|------|-------|-------|------|-------|-------|------|-------|-------|
| | Boys | Girls | Total | Boys | Girls | Total | Boys | Girls | Total |
| I–V | 37.2 | 33.9 | 35.6 | 29.8 | 23.1 | 26.7 | 28.7 | 25.1 | 27.0 |
| I–VIII | 54.7 | 55.4 | 55.0 | 46.7 | 39.0 | 43.3 | 40.3 | 41.0 | 40.6 |
| I–X | 70.6 | 71.3 | 70.9 | 57.4 | 54.1 | 56.0 | 50.4 | 47.9 | 49.3 |

Source: Gol (2011d).

4.4 DISPOSSESSION

The tribal population groups have, throughout history, been periodically subjected to forced displacement from their natural habitat, with consequent loss of access to the natural resource base around which their life and livelihood revolve. It is with the colonial period that the long history of systematic and continuous dispossession of the tribal population began. The British created the Forest Department in 1868 for the purpose of ‘scientific forestry’; the principal motive was, however, purely commercial. The Indian Forest Act of 1878 not only erased customary rights of the rural population to forest products, but by enabling the State to alter the forest ecology, it also made the forest products of little use to the forest-dependent population groups. This Act, by one stroke of the pen, declared the forests, covering one-fourth of the land area, as the property of the State. B.H. Baden-Powell, the chief architect of the Act, made a clear distinction between ‘rights’ and ‘privileges’ over forest resources.

A crucial contribution was his [Baden-Powell’s] distinction between rights that could not be abrogated without compensation but must be engraved in the settlement record and privileges that were always regulated, could be terminated, and, where allowed, were not alien-able. He averred that villagers, who from time immemorial were accustomed to cut and graze in the nearest jungle lands, did not acquire a right by prescription because they used the forest without any distinct grant or license. All customary usages were therefore merely privilege.⁹

The independent Indian State carried this endeavour further by replacing the ‘privileges’ with ‘concessions’. National interests trumped all other claims of forest-dependent communities.¹⁰ Since national interests were identified with industrialisation, the dispossession of tribal population groups due to mining, construction of dams, roads, factories and other development projects accelerated post independence, given the massive efforts towards industrialisation.

Eighty per cent of the tribal population of India is concentrated in an almost contiguous belt that spans Andhra Pradesh, Odisha, Jharkhand, Chhattisgarh, Madhya Pradesh, Maharashtra and Gujarat.¹¹ A significant part of this belt is forestland on which the tribal population is dependent for resources, while other lands are common property resources (CPR) accorded protection under the Fifth Schedule. A significant part of this land is rich in mineral deposits and has been recognised as

9 Sivaramakrishnan (1995), p. 14.

10 Kulkarni (1987).

11 Fernandes (2008).

such by the State.¹² Similarly, tribal land in Assam and other states in the northeast are accorded protection under the Sixth Schedule.

Despite the constitutional protection, the tribal population in these regions has regularly been displaced for mining, industrial growth, irrigation and hydroelectric projects through 'legalised' land alienation by using laws like the Land Acquisition Act of 1894.¹³ Dams singularly account for approximately 50 per cent of all displacement.¹⁴ The earliest displacement of tribals in Independent India involved taking over 133,400 hectares of tribal CPR in Assam for refugee rehabilitation. Similarly, land was taken over in tribal CPRs of Odisha, Chhattisgarh and Jharkhand for accommodating refugees.¹⁵ In fact, according to estimates by Planning Commission, 55 per cent of all displaced persons till 2001 were tribals.¹⁶

The most significant alienation from land and loss of livelihood comes from development-induced displacement and land acquired for mining and industrial projects through the Land Acquisition Act, 1894. While, in the absence of proper national-level data, it is extremely difficult to determine the exact number of persons displaced or deprived of sustenance without physical relocation, reliable yet conservative estimates put the number between 21 million (about 2.5 million among them displaced due to mining projects) and 60 million (including about five million displaced or dispossessed due to mining projects).¹⁷ Since the Act recognised only individuals as owners for compensation, CPR and tribal revenue lands are not considered for compensation and can also be acquired without notification. CPR subsumes land, forest, water bodies, pasture lands—all of which contribute to the livelihood of the local tribal population for their basic subsistence. For instance, settled tribes like the Mundas and the Ho in Jharkhand acquire at least 50 per cent of their food, fodder and fertilizer from the forests.¹⁸ In Orissa, between 1951 and 1995, of the total land acquired under the Land Acquisition Act, 1894, 28 per cent was common land and 30 per cent was forestland.¹⁹

Since the Act did not recognise CPRs and Revenue lands as *owned* by the tribal, it had two-fold implications. One, the dwellers in this region were not counted among the official Displaced Persons (whose dwellings were affected); two, they were not recognised as Project Affected Persons (whose livelihoods were affected). Thus the alienation of tribal people from land, forest and CPRs remained largely invisible, thanks to the Land Acquisition Act, 1894. Fernandes points to Assam where the state officially places barely 17 per cent out of the 19-lakh persons in the displaced category.²⁰ Most of those not accounted in the official numbers involve CPR dependents, and the majority of these are tribal people. According to some, more than 50 million people were displaced from 1947 to 2000, the burden falling disproportionately on tribal populations.²¹ As Roy puts it, "[t]he ethnic 'otherness' of their victims (the tribal people) takes some of the pressure off the nation-builders. It's like having an expense account. Someone else pays the bills."²²

The Indian Forest Conservation Act, 1980, dealt a further blow to tribal rights over forest resources by subordinating them to conservation objectives and by viewing the tribal people as 'encroachers'.²³ In 2002, the Ministry of Environment and Forests, following a Supreme Court ruling, ordered the eviction of all forest encroachers within a period of six months. Almost 150,000 hectares of land were 'cleared', leading to the eviction of an estimated 300,000 tribal and non-tribal forest-dwelling families.²⁴ The public outcry following this led to the enactment of Forest Rights Act, 2006. However, according to a Ministry of Rural Development report, forest degradation rather than encroachment is the main problem.

[T]he degraded forest area in the country is as high as 60% of the total forest cover. As against this, the total encroachment in forest areas in the country is 1.25 million hectares, which is merely 1.9% of the total forest area. According to the Forest Survey of India about 0.26 million hectares of forest land was diverted between 1950 and 1980 to settle people. Another 0.27 million hectares, so called encroached before 1980 has been sent to the Central government to be regularized.²⁵

Even after clearing the forests of the 'encroachers', the diversion of forestland for mining, infrastructure and development projects has not decelerated. After the enactment of the Conservation Act, 1980, the rate of diversion of forestland initially slowed down. In 1981, it became mandatory to get Central government's permission to divert forestland. However,

12 Gol (2002).

13 Fernandes (2008).

14 *ibid.*

15 *ibid.*

16 Gol (2002).

17 For the lower-end estimates, see Mahapatra (1999, p. 5), who covers the period 1951-1990. For the higher-end, yet conservative, estimates, see Fernandes (2007), covering the period 1947-2000.

18 Fernandes (1999).

19 *ibid.*

20 *ibid.*

21 Fernandes (2004).

22 Roy (1999), p. 19.

23 Kumar and Kerr (2012).

24 *ibid.*

25 Gol (2009), pp. 111-112.

with globalisation and faster rates of growth, the diversion has intensified. According to the figures from Ministry of Environment and Forests, of the total forestland diverted since 1981, over 55 per cent has been post-2001. Over 70 per cent forestland cleared for mining since 1981 has been in the period 1997-2007.²⁶ Table 4.14 shows the magnitude of forestland diversion in the past three decades.

Table 4.14: Amount of Forestland Diverted, 1981-2012

| Time Period | Forestland Diverted (in ha) |
|-------------|-----------------------------|
| 1981-92 | 198421.19 |
| 1992-97 | 84587.07 |
| 1997-2002 | 147397.57 |
| 2002-2007 | 196262.32 |
| 2007-2012 | 204425.06 |

Source: CSE, 2011

About 2.43 lakh hectares of forests have been cleared for industrial and development projects and 1.64 lakh hectares for oil and mineral exploration between 2004 and 2013. Proposals for clearance of 3.3 lakh hectares of forests are currently under consideration before the Central and the state governments across the country. While much attention is paid to the delay in clearing projects, the fact that very few projects get rejected has largely gone unnoticed. Since 2004, 10,294 projects were cleared and only 331 were rejected—making the rejection rate 0.032 per cent.²⁷

Given this record, the hostility of Forest Departments to FRA acquires a new significance (the FRA and its impacts and implications are discussed in detail in the next chapter). Parallel bodies such as Joint Forest Management (JFM) committees, controlled by Forest Department, have been empowered in violation of the spirit of PESA and FRA, including attempts by JFM to divide villages and replace community bodies such as Gram Sabhas by such Forest Department-controlled JFM committees. As late as 2013, the Ministry of Tribal Affairs had to clarify to state governments that the FRA 2006 indeed supersedes Forest Conversion Act, 1980, in the matter of settlement and conversion of all forest villages, old habitations, un-surveyed villages, etc., into revenue villages.²⁸ The Forest Department of Madhya Pradesh has refused to implement the conversion of forestland according to guidelines given by Ministry of Tribal Affairs and argued that “conversion can only be done as per the 1990 guidelines of the Union Ministry of Environment and Forests (MoEF) that require coordinated efforts from forest, revenue and police departments to evict the ‘encroachers’ settled on the forestland after 1980”.²⁹

Moreover, private appropriation of tribal land through marriages and fraudulent means, sale or leasing of land to contractors and money-lenders due to indebtedness, and collateral land alienation due to negative externalities from mining and other industrial activities continue to threaten the livelihood base of the tribal population and their way of life, even when they are much less recognised and commented upon, compared to development-induced displacement.³⁰

To sum up, the socio-economic condition of the tribal people has remained dismal even after more than six-and-half decades of independence, and despite the avowed intentions of the State to bring development to the tribal areas and make living conditions of the tribal people on par with the rest of the population. In terms of most standard developmental yardsticks—poverty, inequality, access to land and other assets, access to health and education—the tribal people come across as the most vulnerable population group. The force of development has actually often been a scourge to the tribal population, forcefully displacing them from their lands and dispossessing them of their access to common property resources and their livelihoods. This exclusionary and often rapacious development process has naturally increased their alienation from the mainstream. Given this backdrop, in the following two chapters, we interrogate the major legislations and policies undertaken by the Indian State in the past two decades, and their impacts on the tribal populations, to understand the nature of the engagement between the State and the tribal people in the post-liberalisation era.

²⁶ Kalpavriksha (2009), p. 1.

²⁷ Sethi (2014).

²⁸ Gol (2013b).

²⁹ Kumar (2014).

³⁰ CSE (2009); World Bank (2011).

CHAPTER 5

LEGISLATION FOR INSTITUTIONAL REFORMS – PANCHAYAT (EXTENSION TO THE SCHEDULED AREAS) ACT AND THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT

5.1 TOWARDS AUTONOMY AND RIGHTS OF SCHEDULED TRIBES

On the face of it, adivasis and their areas in mainland India have been empowered and entitled under an increasingly elaborate and sophisticated legislative structure, whose goal is to protect their interests. This structure has curiously been added to and intensified in the years since the liberalisation of the country in the early 1990s. Interestingly, on examination, this structure is also seen to respond to numerous stylised facts, so to speak, about the particularities of adivasi society, economy, culture, location and way of being. In other words, it recognises the existence of customary laws and traditional practices underpinning authority in terms of governance (as opposed to intrinsic power relations embedded within the modern modes of governance),¹ their heavy reliance on common property for consumption (as opposed to private property for exchange or profit) as well as livelihoods and the resource-rich nature of their land, especially forests.

In Table 5.1, we set out the salient legislations pertaining to adivasis since the early 1990s, in chronological order of the Five-Year Plan periods. This helps situate this legislation within the larger economic paradigm of the State holding sway at the time. In this chapter, we look at two sweeping institutional legislative reforms that apply to Fifth Schedule Areas. The first is exclusively tailored to them—Panchayat (Extension to the Scheduled Areas) Act—and the second applies across India, but it targets the many Scheduled Tribes who would come under its ambit—The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act. Each sought to bestow autonomy to self-govern, and rights on adivasi communities.

As the Acts and (Draft) Bills are in the public domain, we refer to those documents while highlighting the key features that these laws intend to achieve. The key institutions and actors responsible for their implementation, both on the side of

¹ The point is that customary traditions and practices of authority (e.g., delegation of authority to elders in a community) is often different from power relations inherent in formal modern structures of governance. We are grateful to Ajay Dandekar for a clear exposition of this point.

the State and the side of the community, are then discussed. Finally, the chapter looks at the status of these Acts today, critiquing various factors that have contributed to making such progressive legislations a hollow promise to adivasis of mainland India.

Table 5.1: Legislative Reform and Policy Shifts in Fifth Schedule Areas since Liberalisation

| Legislative Reform / Policy Shift | Name | Year | Corresponding Five Year Plan Period | Area | Purpose |
|-----------------------------------|---|-----------|--|---------------------|---------------------------------------|
| Institutional Legislative Reform | Panchayat (Extension to the Scheduled Areas) Act | 1996 | 8th Plan Period (1992-1997) | Fifth Schedule Area | 'Autonomy' to self-govern |
| Institutional Legislative Reform | The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act | 2006 | 10th Plan Period (2002-2007) | India | Recognise 'rights' |
| Policy Shift | The Integrated Action Plan | 2010-2011 | 11th Plan Period (2007-2012) | Fifth Schedule Area | 'Development' and 'security' |
| Economic Legislative Reform | Draft Mines and Minerals (Development and Regulation) Bill | 2011 | 11th Plan Period (2007-2012) | India | 'Growth' and 'development' of country |
| Economic Legislative Reform | The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill | 2013 | Introduced in the 11th Plan Period (2007-12), passed in the 12th Plan Period (2012-2017) | India | 'Growth' and 'development' of country |

5.2 THE PANCHAYAT (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996 (PESA)

At an overall administrative level, in a conscious bid to protect *adivasi* communities from economic, social and cultural onslaught from the outside, the governance structure of Fifth Schedule Areas privileges the Union executive over individual state legislatures. In other words, the Centre may give directions to states on the administration of these areas. Also, as discussed in chapter 3, the governors of states with Scheduled Areas are to regularly submit reports on their administration to the President of India, with recommendations "for the peace and good government of any area in a state which is for the time being a Scheduled Area".² It is these provisions for Fifth Schedule Areas, guaranteed by the Constitution, "through which the implementation of PESA can be assured",³ the operative word here being 'can', as opposed to 'is', and we shall see why below.

The 73rd Amendment to the Constitution Act of 1992, promulgating decentralisation via the creation of Panchayati Raj institutions across rural India, bought exempt Schedule Areas into its ambit in many states.⁴ After *adivasi* leaders mobilised to protest against this backdoor attempt to dilute their autonomy, invested in their own traditional bodies of authority and governance, and the Andhra Pradesh High Court ruled against the extension of the Andhra Pradesh Panchayati Raj Act of 1994 to Schedule Areas, deeming it unconstitutional, deliberation took place at the Centre on how to extend the provisions of the 73rd Amendment to Schedule Areas, while being sensitive to traditional and customary practices of the tribal people.⁵ This resulted in the PESA, enacted during the Eighth Plan Period (1992-1997).

At its core, PESA sought to recognise "customary law, social and religious practices and traditional management practices of community resources"⁶ prevalent in Fifth Schedule Areas, and to devolve power to local *adivasi* populations to allow them to genuinely self-govern in certain critical spheres. The key areas over which the community's writ was to hold sway by this law—through mandatory (i.e. required) or discretionary (i.e. exercising them is optional) powers—are seen in the **Table 5.2**.

As per Section 4(a) of the Act, legislatures of states with Schedule Areas were to amend their existing Panchayat Acts, to make them consistent with the precise provisions of PESA,⁷ and to do so no later than one year from its promulgation.

2 Government of India (2013e), p. 285.

3 *ibid.*, p. 284.

4 Pat (2000).

5 *ibid.*

6 Gol (1996), p. 1.

7 Section 4(a) requires that "State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and

Crucially, according to section 4(d), the Gram Sabha was to be the fulcrum of authority as regards devolving power to the community, which, as per Section 4(n),⁸ was not to be usurped by Panchayats at various levels. “Although in the Extension Act [PESA], phrases like ‘Gram Sabhas or Panchayats at appropriate level’ have been used in certain clauses, relationship between the Gram Sabha and Panchayat should be similar to that between legislatures and government—meaning thereby that approval of the Gram Sabha for each aspect of rural economy and society is *sine qua non*. The underlying spirit of the Extension Act [PESA] is on devolution rather than delegation of powers and authority to Gram Sabhas and Panchayats, that is adoption of decentralised participatory democracy in the form of Gram Sabhas rather than representative decentralised democracy in the form of Panchayati Raj institutions.”⁹

Table 5.2: Institutional Provisions under PESA 1996 for Self-Governance

| Community/local Institutions | Power |
|--|---|
| | Mandatory |
| Gram Sabha | Management of ‘community resources’; to approve plans, programmes and projects for development before they are taken up for implementation by the Panchayat at the village level; to identify beneficiaries under poverty alleviation programmes; Panchayat to get utilisation of funds certificate from the Gram Sabha. |
| Panchayat | Planning and management of minor water bodies |
| | Discretionary |
| Gram Sabha or Panchayat at appropriate level | <p>Consulted before making the acquisition of land for development projects and before re-settling or rehabilitating persons affected by such projects [the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the state level]</p> <p>Prior recommendations shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals</p> <p>Prior recommendations shall be made mandatory for grant of concession for the exploitation of minor minerals by auction.</p> <p>State legislatures to ensure Gram Sabhas and Panchayats are endowed with the power to:</p> <ul style="list-style-type: none"> enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant the ownership of minor forest produce prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a ST manage village markets exercise control over money lending to the STs exercise control over institutions and functionaries in all social sectors exert control over local plans and resources for such plans including tribal sub- plans. |

Nearly two decades on, numerous serious issues plague the operationalisation of PESA across all nine states with Scheduled Areas, and this has been officially recognised by even the Prime Minister, on several occasions. Even the Twelfth Plan documents the issue, hinting at unlawful implementation of its provisions in some instances.¹⁰ Indeed, when speaking about the rise of violent conflicts and resistance in the form of Maoist and Naxal movements in these regions, both have explicitly or tangentially alluded to the lack of implementation of PESA, and the consequent sense of injustice and frustration among the tribal population as key contributory causes.¹¹

Let us now trace the major challenges to the implementation of PESA to the existing institutions of local governance, forces of federalism and the political economy of Indian capitalism.¹²

PESA states that the Gram Sabha should primarily articulate the community’s voice. In the Act, in Sections 4 (b) and 4 (c),

traditional management practices of community resources” (ibid., p.1).

8 Section 4(d) requires that “every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution” (ibid., p.1). Section 4 (n) makes it clear that “the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha” (ibid., p. 3).

9 Pal (2000), p. 1603.

10 Gol (2013e).

11 ibid., pp. 281-283.

12 It is beyond the scope of this paper to dissect all the shortfalls in the implementation of PESA across India. Those interested may see Dandekar and Choudhury (2010).

provisions are made for a definition of Gram Sabha that is appropriate particularly to Fifth Schedule Areas, and is not just an extension of the Panchayati Raj structure as it operates in the rest of the country.¹³ What would a Gram Sabha that is appropriate to *adivasi* communities look like?

It is often not appreciated that the Gram Sabha-centric PESA system cannot function unless the Gram Sabha is located in a habitation, the natural living unit of the community...It is only thus that the Gram Sabha, comprising all adult members of the habitation, can play the pre-eminent role in all consultative stages and in final decision-making, as provided for in PESA.¹⁴

The Raipur Roundtable of Panchayat Ministers in 2004 concurred that “the Gram Sabha in PESA areas should be reconstituted on a habitation basis and appropriate powers must be devolved to these Gram Sabhas so that they have the final say in decisions related to *Jal-Jangal-Jameen* (Water, Forest and Land) in their geographical jurisdiction.”¹⁵

However, villages in these areas continue to be defined as administrative units, rather than the fluid and organic habitation definition allowed for in Section 4(b). The Gram Sabha, as well as the Gram Panchayat, is commensurately spread over a number of villages and habitations, similar to Panchayati Raj institutional structures in non-Schedule Areas of the country. This is so, despite a 32-page document of the Ministry of Panchayati Raj setting out “Model Rules on PESA”, many to do with operationalising a functioning and effective Gram Sabha.¹⁶ The National Advisory Council has also made recommendations to the government on reconfiguring Gram Sabhas on the basis of *adivasi* habitations, recognising that in some instances the size of the consequent Gram Sabha maybe too small. However, “that is not an issue as long as the reconstituted village reflects tribal homogeneity and conforms to the territorial-cum-habitation boundaries of traditional tribal Sabhas.”¹⁷

This brings us to the heart of two much larger issues plaguing the constitution of an effective operational Gram Sabha, as enacted in the law via PESA. First, even while the said objective of the State has been to devolve powers and provide autonomy to the local and the most organic loci of *adivasi* community life, in practice the traditional authority structures of the *adivasis* were superimposed and replaced by uniform, administration-driven decentralised Panchayati Raj structures of governance. This obviously did not work and created much resentment in the process, as these structures were seen only as extensions of the tentacles of the State, and not as self-governing institutions.¹⁸ Unlike the rest of India, where these structures displaced nothing, in the Scheduled Areas they actually set up dual authorities in terms of adjudication on common property resources, their ownership and use.¹⁹

Second, to the extent that the Centre sees the enactment of PESA as the sole responsibility of the state governments (as the Twelfth Plan makes clear), it is abrogating its powers as specially laid down in the Schedule Areas Act, whereby the Union Government is to oversee that the administration in such areas is carried out satisfactorily, and the governor is to report regularly on their status to the President of India. In the current scenario, state governments are completely free to disregard PESA’s enactment. In 2008, all nine states with Scheduled Areas made amendments in their Panchayati Raj Acts, but none made rules for the implementation of PESA.²⁰

The Sub Group for the aforementioned Committee has questioned “the attitude of the State Government that a mere amendment to the Panchayati Raj Act of the State is tantamount to its operationalisation.”²¹ In 2013, yet another committee makes a similar point.

The Committee express their concern that of nine PESA States, only three (Andhra Pradesh, Himachal Pradesh and Rajasthan) have notified PESA rules....The Constitutional directive is very clear. But it is well known that old laws and Acts, which grossly undermine the authority of PESA, are still in force. Subject matter laws and rules in respect of money lending, forest, mining and excise laws have not been amended.²²

13 “4(b) 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. 4(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level.” op.cit. Gol (1996), p.1.

14 Gol (2013e), p. 289.

15 *ibid.*, p. 290.

16 Gol (2012c).

17 Gol (2013e), p. 291.

18 On tensions between the functions of the Gram Sabha and those of the Gram Panchayat, see Saxena (2004) and Upadhyay (2007).

19 On the importance of common property resources - including land, forests, minerals - to *adivasi* groups in Scheduled Areas, and the need for empowering the Gram Sabhas in these areas so that they can properly carry out the difficult task of managing them, see Gol (2009), vol.1.

20 *ibid.*

21 “There are four dimensions to the implementation of PESA, the first being amendment in the related laws to confirm with the provisions of PESA. The Ministry of Panchayati Raj, Government of India, had commissioned a study by the Institute of Law, New Delhi, which finds in some states there are as many as 29 Acts to be brought in conformity with PESA. The second step involves the formulation of the procedural laws governing the conduct of business and establishing the command over natural resources. The third relates to providing manpower support and resources to the Gram Sabha. The fourth step involves training support to the Gram Sabha building up a mass movement of the CBOs, legal literacy groups and others” (*ibid.* p. XIV).

22 Gol (2013e), pp. 294-295.

However, it should be noted in this regard that the Centre's own policies on wastelands, water resources, extraction of minerals, resettlement and rehabilitation, forests, wildlife conservation etc., are themselves yet to be made compatible with all the provisions of PESA, even though many of these were passed after 1996.

Moreover, individual states can completely disregard an Act of Indian Parliament by having state-specific rules. State governors do not protest such flagrant flouting of Constitutional provisions for Fifth Schedule Areas, and neither does the Union Government issue any directions to the state governments.²³

In such a scenario, state governments also often do not devolve any power to lower levels of Panchayati Raj structures or the Gram Sabhas, ignore definitions of 'community resources', and help those who are powerful and with vested interests disrupt meetings by dictating the agenda from above or through police presence or by neglecting to carry out mandatory consultation requirements. All of these occur widely.²⁴

Despite the hindrances noted above, the Gram Sabhas in Scheduled Areas have often resisted—sometimes even successfully—several initiatives that go against the interests of the tribal people (especially with regard to attempts at land grabs for mining projects). If one keeps this background in mind, it is possible to read the two decades of failed and foiled attempts to implement PESA in a different light, and to wonder whether such failures reflect an attempt to stymie the efforts of the Gram Sabhas.

5.3 THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

The Scheduled Tribes and Other Traditional Forest Dwellers Act (Recognition of Forest Rights) Act, 2006, or FRA, was notified in 2008 and was path-breakingly progressive in several ways. In its preamble, it acknowledged "the forest rights on ancestral lands and their [Scheduled Tribes and other traditional forest dwellers'] habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest system".²⁵ Moreover, in justifying why this law was being enacted, it argued, "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."²⁶ In including non-*adivasi* forest dwellers and its scope across all areas, not just Scheduled Areas, it was more sweeping in its ability to cover marginalised individuals and communities, even those falling outside the bounded spheres of State sightings and imposed categories (by tribe and area definitions).

To redress these injustices, *adivasi* and other communities were given 13 rights under the Act. These rights included the right to hold and live in the forestland for individual or common occupation for habitation or self-cultivation; community rights, such as *nistar*; right of ownership and access to collect, use and dispose of minor forest produce; other community rights of both uses and entitlements to water bodies, grazing, and traditional seasonal resource access for nomadic and pastoralist communities; community tenures of habit and habitation for primitive tribal groups and pre-agricultural communities; rights in and over any disputed lands under any nomenclature in any state where claims are disputed; rights for conversion of *pattas* or leases or grants issued by any local authority or any state government on forest lands to titles; rights of settlements and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use; *adivasi* rights recognised under any state or Autonomous District or Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any state; and right to in situ rehabilitation in cases where Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forestland of any description without receiving their legal right to rehabilitation prior to end 2005.²⁷

As highlighted in **Table 5.3**, in terms of institutional procedures for determining forest rights, the Act vests the key authority and power with the Gram Sabha. They are to initiate the process to explore the nature and extent of individual or community forest rights, falling within their local jurisdiction.²⁸ Claims submitted to them are to be verified, after which a map that helps in the operationalisation of rights is to be drawn up, and a resolution on its adoption is to be passed. A copy of this document is to be sent to the Sub-Divisional Committee, which then forwards it to the District Level

23 We offer more examples of this in the next chapter in terms of mining project clearances, where we also refer to some recent correspondence sent by the Minister of Tribal Affairs to the President of India protesting the negligence of state governors in carrying out their duties as regards the protection of *adivasi* interests.

24 Gol (2013e).

25 Gol (2006), p. 1.

26 *ibid.*, p.1.

27 *ibid.*, p. 3-4, Chapter 2, Sections 3(a) to 3(m).

28 *ibid.*, p. 7, Chapter 4, Sections 6(1).

Committee for the final decision. The state government is to constitute both these committees, and “the decision of the District Level Committee on the record of forest rights shall be final and binding”.²⁹ These committees, as well as a State Level Monitoring Committee (also formed by the state government to “monitor the process of recognition and vesting of forest rights”),³⁰ shall comprise “officers of the departments of Revenue, Forest and Tribal Affairs of the state government and three members of Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members”.³¹

Much like PESA, had the FRA been implemented as envisaged, the *adivasi* situation in the country would have improved much today. In deep contradiction to all the 13 ‘rights’ provided for by the Act, the real story of its execution on the ground is abysmal.

Like before, let us consider the primary challenges to the implementation of FRA coming from the existing institutional structure of local governance, federalism and the political economy of India.³²

Table 5.3: Institutional Provisions under FRA 2006 for Determining Forest Rights

| Institution | Formation | Members | Role in Implementing FRA |
|----------------------------------|------------------|--|--|
| Community Institution | | | |
| Gram Sabha | Local Government | All adult members of the village/ villages defined in the context of Fifth Schedule Areas constitute the Gram Sabha. | To instigate a process to investigate the nature and scope for individual or community forest rights in the areas under their authority To corroborate entitlement applications, to prepare maps to operationalise these entitlements and to ratify resolution on their adoption. |
| State Institution | | | |
| Sub-Divisional Committee | State government | Officers of the departments of Revenue, Forest and Tribal Affairs of the State Government; three members of Panchayati Raj Institutions at the appropriate level, appointed by the respective PRIs, of whom two shall be from the Scheduled Tribes | Copy of above Gram Sabha documents sent to them |
| District Level Committee | State government | —same as above— | Copy of above Gram Sabha documents, via Sub-Divisional Officer, sent to them. Their decision on forest rights claims is “final and binding” |
| State Level Monitoring Committee | State government | —same as above— | To oversee the establishment and vesting of forest rights |

At a most basic and critical level there has been no reconstitution of Gram Sabhas to fit FRA provisions—just like in the case of PESA—making the community institution non-operational to carry out the serious role accorded to them in the Act.^{33,34} Villages continue to be administrative ones, and the formal Gram Sabhas consequently spread out over a number of villages and habitation, constituted at the Panchayat level in Schedule and non-Schedule Areas alike, as opposed to the homogenous, territorial and habitation based definition of villages and corresponding Gram Sabhas employed in the FRA (wherein the Gram Sabhas would have neatly overlapped with the existing traditional *adivasi* sabhas in Schedule Areas). Such natural and flexible Gram Sabhas would have been effective to carry out the role assigned to them in *adivasi* strongholds, and was precisely the reason for their special provisioning in PESA. At the level at which they are constituted, i.e., the Panchayat level, non-*adivasi* hold sway over the interests of *adivasi* for most parts.

29 *ibid.*, p. 7, Chapter 4, Section 6(6).

30 *ibid.*, p. 8, Chapter 4, Section 6(7).

31 *ibid.*, p. 8, Chapter 4, Section 6(8).

32 It is completely beyond the scope of this paper to present a comprehensive account of FRA, an area on which the academic (across disciplines) and practitioner community has been particularly fertile in their critical analysis.

33 *Gol* (2013e), p. 298.

34 Two exceptions appear to be Kerala and Gujarat, see Dutta (2014).

At the other end of the metaphorical desk, in terms of institutions empowered to take decisions on forest rights claims, are the Sub Divisional Committee and the District Level Committee, the latter having the final word on any forest rights claims (see **Table 5.3**). There is also the State Level Monitoring Committee, charged with ensuring that entitlements are vested, where they are approved. Each of these committees is set up by the state government and has officer members from the departments of revenue, forests and tribal affairs. Among the three members selected by and from “Panchayati Raj Institutions at the appropriate level”,³⁵ two Scheduled Tribe persons should compulsorily be part of these committees. However, the distribution of power between the *adivasi* community, represented by mostly non-operational Gram Sabhas, and frontline officials from the state government (especially those from departments such as forest and revenue, that see FRA as an usurpation of their area of control and as an Act that contravenes their own mandates of conservation and fund collection) is so asymmetrical that it works against the letter and spirit of the law.

Running systematically through the findings attributed to this institutional and structural construct of determining and managing forests rights claims, FRA is poorly implemented in most states, as the forest bureaucracy has not ceded control in most cases.³⁶ Gram Sabhas are purposely overlooked by Forest Departments, with counterpart bodies, such as Joint Forest Management Committees, run by them, empowered in violation of the law.³⁷ All non-land rights, largely the community ones within FRA, have been disregarded in FRA implementation.³⁸ A scant few villages, such as Mendhalekha in Gadchiroli and Jamguda in Kalahandi, have successfully resisted and contested the power and control exerted by the Forest Department and state authorities, wresting from them the management of their minor-forest produce, through a forced transfer of power to the Gram Sabha. In most other parts, the situation is dismal.³⁹ In fact, there are reports of continued violence by Forest Department officials against *adivasis* and forest dwellers.⁴⁰

Turning next to the role of the Revenue Department, most land records are out of date, there is a vast discrepancy between Forest Department and Revenue Department records and large tracts of land—called Orange Areas—fall in both sets of departmental records, resulting in continuous conflicts.⁴¹ Such ‘fuzziness’ of land records and a failure to rationalise them means a severe threat to the possibilities of FRA as a land redistributive scheme to correct historical injustices to *adivasis* and traditional forest dwellers.⁴² It has been noted that under FRA, the term “Community Forest Resource” is not defined, leaving it open to deliberate misinterpretation. Making strong recommendations in regard to FRA implementation to ensure the rights of *adivasis* over land, this useful draft report, which was never acted upon, demands numerous “legislative, administrative and public education” steps be taken immediately.⁴³

It appears that while FRA was initially lauded as a victory for people’s movements in the struggle for *adivasi* autonomy and sovereignty as it seemed to validate their unique way of life, there is now cynicism that this is yet another case of legal rights and a ‘new welfare model’ used by the State to command complete sway over resources, alienating people from their land and way of life to create and sustain capital markets.⁴⁴ On paper, FRA recognises community and customary rights to the forest, allowing *adivasis* and others to protect forests via their own modes of conservation, but at the level of state government, the Ministry of Tribal Welfare and the Forest Departments have interpreted these provisions as a license to sanction export/urban market oriented mono/cash-crops (rubber, coffee, and fruit plantations). This process, in conjunction with another welfare programme, the National Rural Employment Guarantee Scheme (NREGS), has often led to situations where the tribal people are reduced to being a source of cheap labour for so-called ‘development’ schemes.⁴⁵ In such a model, the tribal people can supposedly now cultivate their lands with dignity and without any fear; can plant rubber crops, mango, cashew nut, orange, lime, or palm oil as per local conditions (even though they have never cultivated these are commercial cash crops); and the state government benevolently promises to develop lands in tribal areas, with the tribals being paid daily wages under the NREGS programme, and therefore being converted into daily wage labour (even though they are tilling their own land).⁴⁶ It is easy to see why after FRA’s enactment, and its progress thus far, grassroots struggles have had to repeatedly mobilise due to its poor implementation by state governments, and in some cases, the legal process is being resorted to, to challenge state bureaucracies.⁴⁷

On the federalism question, key for Schedule Areas, due to the power vested with the Centre and the executive over state

35 Gol (2006), Chapter 4, Section (8).

36 Gol (2010a).

37 Gol (2013e). Violations include the formation of Forest Rights Committees and attempts to use joint forest management state apparatus to divide villages and replace community bodies by its committees, controlled by the Forest Department.

38 *ibid.*

39 *ibid.*

40 Kumar and Kerr (2012).

41 Gol (2009).

42 *ibid.*

43 *ibid.*

44 Ramdas (2009), p. 72.

45 Kapoor (2010).

46 Ramdas (2009) p. 69.

47 Kumar and Kerr (2012).

legislatures, the Union Ministry of Tribal Affairs was compelled, in 2013, to write a public letter to all state government and union territories with *adivasi* populations living therein, taking up only the issue of Orange Areas as a single example of states' defiance.⁴⁸ The letter asked why there had been non-compliance with conversion of all forest villages, old habitations and unsurveyed villages into revenue villages, "without any exceptions or exemptions to such villages in any category of forest lands", and "including the actual land-use of the village as a whole, including lands required for current or future community uses, such as schools, health facilities, public spaces etc".⁴⁹ The ministry had issued comprehensive guidelines "advising" states that this should be carried out with "a sense of urgency in a time-bound manner" only the previous year [2012].⁵⁰ The letter points out that despite FRA being notified for more than five years, the state governments are "not taking any action for conversion of forest villages and other such villages into revenue villages as the *State Forest Department officials still consider that the provisions of the Forest Rights Act, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 11 November 2000 which stayed such conversions*" [emphasis ours].⁵¹ It goes on to clarify that, "It is a well settled principle of statutory interpretation that a subsequent statute supersedes all preceding court judgments or orders of prior date," and as FRA explicitly notes that all rights it bestows are to be upheld "notwithstanding anything contained in any other law for the time being in force", this "nonobstante clause, therefore, recognizes and vests the forest rights under Section 3(1) in accordance with the provisions of the FRA, regardless of whether forest rights might be contrary to other laws, which includes statutory law as well as judicial precedent."

More recently still, in a letter dated March 7, 2014, the Union Ministry of Tribal Affairs (MOTA) openly challenged circulars of February 2013 and January 2014 by the Union Ministry of Environment and Forests that exempted linear projects from the consent of the Gram Sabha under FRA 2006.⁵² MOTA argued it is the line ministry for FRA and not the environment and forests ministry, and that the Act does not provide any exemption to any category of projects. It further argued that compliance with FRA in no way counters basic developmental initiatives, rather Section 3(2) expedites projects meant for forest dwellers. The letter repeatedly underscored the role of the Gram Sabha in "developmental initiatives", saying it is highlighted not just in FRA but also in PESA and in the Land Acquisition Rehabilitation and Resettlement Bill (2013). Even the Supreme Court has upheld the primacy of the Gram Sabha (Palli Sabha in the context of the particular region) in *Orissa Mining Corporation vs. Ministry of Environment and Forests & Ors, 2013(6) SCALE 57*, in entertaining and determining upon community or individual forest rights claims, the letter said.

When FRA was first operationalised and notified, the Union Ministry of Tribal Affairs asked state governments on January 11, 2008, to initiate the implementation of the Act quickly, and subsequently sent action points as well as timelines, to them.⁵³ State governments were asked to, among other things, create widespread awareness about FRA among its target groups and potential beneficiaries, as well as authorities concerned; to ensure the translation and publication of the Act and its rules in all local languages and to make sure it is distributed to all Gram Sabhas, Forest Rights Committees and all departments of the state government, including Panchayati Raj, Rural Development etc.⁵⁴ Furthermore, all officials, NGO and CSO staff were to be oriented on FRA (the latter are to assist with the Act's implementation). Finally, the Union Ministry of Tribal Affairs, through monthly progress reports, would apprise the Prime Minister, Cabinet Secretariat and the Deputy Chairperson of the Planning Commission, who would ultimately be monitoring its enactment closely. The ministry, in turn, would monitor implementation, by convening regular review meetings with State Secretaries/Commissioners of Tribal Welfare/Development Departments (eight such meetings were held by 2013).⁵⁵ There can be no doubt, consequently, that there is a serious schism between what the Centre can promulgate via such Acts, and what—if anything—state governments are required to interpret and enact, and by when. It would thus appear that a wilful and premeditated misinterpretation by state actors at best, and sheer disregard at worst, cannot be prevented by the law or procedure of such Acts, such as they are configured at present.

Now we touch briefly on two inter-related and grave political economy issues, which seriously undermine arguments

48 Gol (2013c).

49 The letter states that the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules 2012, notified on 6 September 2012, also contains a similar provision. These Amendment Rules were forwarded to all states / UTs for initiating necessary action on them, as a matter of priority, and provided, inter alia, for: (1) identification of hamlets or settlements and a process of their consolidation for holding Gram Sabha meetings (2) disposal of minor forest produce within and outside the forest area through appropriate transport (3) modification of the transport permit regime in relation to (2), to allow such a permit to be issued by the Gram Sabha / someone appointed by the Gram Sabha (4) making the collection of minor forest produce free of all royalties, fees or any other kind of charges (5) convening of quarterly meetings of the State Level Monitoring Committee etc. Gol (2013a) p.13.

50 Apart from the Amendment Rules notified, noting "that even after a lapse of more than four years of implementation of the Act, the flow of intended benefits of this welfare legislation to the eligible forest dwellers had remained constrained", the Union Ministry of Tribal Affairs issues 'comprehensive guidelines' to all states / UTs on 12 July 2012, requiring inter alia, (1) state governments ensure recognition of rights relating to minor forest produce and bring State policies in alignment with FRA (2) do away with the monopoly of the Forest Corporations in the trade of minor forest produce in the states (3) state governments to not only hand over rights over minor forest produce to adivasis and traditional forest dwellers, but additionally, get them remunerative prices for the produce collected and processed by them (ibid., p.13).

51 ibid.

52 Gol (2014).

53 Gol (2013a), p.12.

54 ibid.

55 ibid., p.12.

about the State's sincerity to privilege *adivasis'* well-being over nationalist 'development' and growth agendas. First, the conflict between various related laws, policies and programmes.⁵⁶ As with PESA, these have slowed down the implementation of the FRA and actually made room for misinterpretation by different state governments, as well as encouraged subsequent lengthy course corrections. The Land Acquisition Act, for example, provides that community rights can be acquired in exchange for compensation. The Mines and Minerals Act does not sufficiently recognise and protect customary forest rights in Scheduled Areas and elsewhere. The Gram Sabha does not play a central role when notifying protected areas under the Wildlife Protection Act. PESA rules contradict the FRA rules in some states such as Rajasthan, as do joint forest management programmes in Odisha and Maharashtra.⁵⁷

Second, delving briefly into issues that will be dealt with in greater detail under the discussion on Land acquisition Act in the next chapter, the Committee on State Agrarian Relations and Unfinished Task of Land Reforms makes a few suggestions on FRA implementation:⁵⁸ (1) All the land acquisition process in tribal areas must be stopped before the settlement of *adivasi* communities under FRA (2) All encroachment and other minor forest offence cases registered against *adivasi* communities must be withdrawn immediately. (3) *Adivasi* communities who were earlier displaced because of conservation priorities, from national parks and wildlife sanctuaries, must be rehabilitated under FRA. (4) An area occupied by *adivasi* communities must not be demarcated for the rehabilitation of any other project-displaced community. (5) Any land that has been claimed under FRA must not be identified or utilised for *Jatropha* plantation. (6) All Primitive Tribal Groups (now known as Particularly Vulnerable Tribal Groups) must be exempted under FRA, regardless of their date of occupancy of a particular piece of land (i.e. be it after the deadline of December 2005).

From the discussion so far, the effectiveness of the laws in carrying out their mandate to help *adivasis* is held suspect. It is true that these laws have given the State a discourse and a long rope on taking steps to correct historical injustices, and to restore the autonomy and customary rights of these marginalised groups. But the picture of their implementation on the ground continues to be dismal—a fact acknowledged by the many arms of the State itself, including its highest functionaries (e.g., the Prime Minister's Office)—raising questions about the State's intent.

In conclusion, had PESA and FRA been implemented as envisaged, they would have done much to alleviate *adivasi* discontent and address their long history of exploitation. As it turns out, the very structure of institutional reform—such as those wrought through legislative acts like PESA and FRA—has brought about extreme asymmetry in power. This is clear from how relations play out among nodal ministries, between the Centre and state governments, and between state governments and the community. We also argue that a lack of will to implement changes that would actually allow autonomy to self-govern or bestow rights to forests, on *adivasis* who are ultimately seen as deserving neither by dominant actors, predisposed both Acts to fail stupendously. The degrees of freedom within the federal structure, in terms of whether state governments actually choose to implement these Acts in the first place, as also the complicated step dance between various Union ministries (of the same political government but often, at least in public, expressing dissonant voices), also point to the immense possibilities of both the Acts never materialising in reality.

We turn next to common property resources that are as critical to the *adivasis*, as they are for 'development' and growth narratives of the State. These are the very vexed question of land and mineral resources, both of which have been the focus of actual and draft economic legislative reform, respectively, in the Twelfth Plan Period. These Acts are not limited to the Fifth Schedule Areas but bear disproportionately heavily on them due to the importance of land, beyond the tangible and measurable and marketable, to *adivasi* communities, as also due to the concentration of mineral resources in these areas. Also discussed is the sole over-arching 'development' and 'security' related policy shift, that of the Integrated Action Plan undertaken in the Twelfth Plan, as a State response to the fervent disaffection in Fifth Schedule Areas, in part stemming from failures in implementation of PESA and FRA.

56 Oxfam India (2013).

57 Gol (2013a), p.3.

58 Gol (2009).



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CHAPTER 6

LAND ACQUISITION, MINING AND SECURITY: NEW STATE INITIATIVES AND THEIR IMPACT ON THE TRIBAL PEOPLE

In recent times, the Indian State has responded to the widespread disaffection against land acquisition throughout the country by legislating The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR). It replaced the colonial Land Acquisition Act of 1894. The new LARR Act has significant implications for tribal populations as far as their autonomy and rights are concerned. Similarly, the Draft Mines and Minerals (Development and Regulation) Bill, 2011 (MMDR) seeks to address the explosive situation in mining areas, especially in those areas where the tribal people have been directly affected by mining activities (e.g. Kalinganagar, Niyamgiri etc.). The simmering discontent in Fifth Schedule Areas, in part stemming from a failure to implement PESA and FRA, and the spread of Maoist influence among the tribal population, has drawn a very specific policy response from the Indian State in the form of Integrated Action Plan, which revolves primarily around the internal security agenda. In this chapter, we discuss each of these issues in detail—the LARR Act, the MMDR Bill and the Integrated Action Plan.

6.1 THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013 (LARR)

According to the Constitution of India, land is a state subject, while land acquisition is a concurrent subject. Land remains the most critical among all the common property resources. Land acquisition—for infrastructure, industrialisation and urbanisation—has become essential for the development model of the State.¹ As economic growth accelerated in the decades post liberalisation, so did demand on the acquisition of land—by the State or private companies. Related issues of “eminent domain”, “public purpose”, “fair compensation” and “resettlement and rehabilitation” have all become increasingly fraught, and the process of resistance to it, increasingly violent. The dated Land Acquisition Act of 1894, albeit with numerous amendments, was seen as unsatisfactory as it did not have any provisions on rehabilitation and resettlement. The National Rehabilitation and Resettlement Policy (NRRP) 2007, was used for this, even though it lacked any statutory power.

Two Bills were consequently introduced in the Lok Sabha during the Winter Session of 2007: the Land Acquisition (Amendment) Bill 2007 and the Rehabilitation and Resettlement Bill 2007. The former was to amend the Land Acquisition Act of 1894, and the latter to specify how displaced persons would be rehabilitated and resettled. It also proposed the creation of project-specific state and national authorities to plan and oversee the process. The Lok Sabha passed the Bills in early 2009, but with its dissolution, they lapsed. In May 2011, the National Advisory Council recommended

¹ Government of India (2011c).

combining the two Bills into one law. It was felt that, rehabilitation and resettlement would otherwise be neglected during the process of land acquisition, and displacement and its aftermath was a salient enough issue to be governed by national legal provisions, instead of leaving them for discretionary enactments of a policy.

In July 2011, the draft Land Acquisition and Rehabilitation and Resettlement Bill, or the LARR Bill, was put in the public domain, for discussion and comments. It was also referred to a Parliamentary Standing Committee on Rural Development, which submitted its report in May 2012. The Ministry of Rural Development incorporated some of the committee's suggestions, before finalising a note for the Cabinet the same year. Objections were raised from many quarters. Some Union ministers were concerned that infrastructure development would slow down if the Bill was passed; the corporate sector contested the clauses covering mandatory consent by 80 per cent of landowners, the need for social impact assessments, as well as the resettlement requirements (as opposed to only cash compensation); and civil society and farmers' groups said the Bill prioritised private sector interests. The government then set up a ministerial committee or Group of Ministers (GoM). Sharad Pawar, the then minister for agriculture, chaired the committee, with the remit to examine the proposed modified legislation. After several rounds of heated debate, the LARR Bill—controversial still—was modified to relax clauses that concerned several ministries and their supposed 'developmental' agenda. This was approved and taken to Parliament for consideration. It was passed in 2013.

The preamble of the final LARR Bill 2013, which extends to every state and UT except Jammu and Kashmir, sets out its avowed development model stating that its imperatives are "to ensure...land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land ... and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status".²

One of the most important and contested features of the LARR Bill was the government could acquire land "for its own use, hold and control, including Public Sector Undertakings and for public purpose".³ These include strategic purposes, such as national defence; "infrastructure purposes", specified in seven sub-clauses, including "project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy",⁴ as well as railways, highways, ports, power and irrigation; rehabilitation and resettlement;⁵ "projects for planned development or the improvement of village sites or any sites in urban areas,"⁶ etc. No public consent is required for land acquisition for any of the aforesaid purposes. The government may also acquire land for public and private projects, "for public purpose as defined in sub-section (I)" and "for private companies for public purpose, as defined in sub-section (II)",⁷ subject to gaining consent of at least 70 per cent and 80 per cent of "affected families",⁸ respectively. The Parliamentary Standing Committee on Rural Development, in its report of 2012, proposed that the government should not acquire land for PPPs (public-private partnerships) or private businesses, even if they are oriented for "public purpose". But this suggestion was not upheld in the final Act. Rather, the loose and undifferentiated term "public purpose" was expanded upon and defined, and these definitions, too, leave a lot of scope for interpretation. The Committee's further recommendation to delete the clause giving wide discretion to the government in delineating any project as an infrastructure project (and to limit the projects to infrastructure and irrigation, including multipurpose dams and social infrastructure such as schools, hospitals etc.) was also not acted upon.

Second, 16 Central Acts are exempt from LARR Act provisions, including The Land Acquisition Mines Act 1885; The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962; The Special Economic Zones Act 2005; and The Coal Bearing Areas Acquisition and Development Act 1957. Again, the Parliamentary Standing Committee on Rural Development of 2012 recommended that no Central Acts be exempt from the provisions of the LARR Bill, but this was disregarded in the final version of the Bill. Important though, the Bill states its provisions shall be fully compliant with PESA 1996, FRA 2006 and land transfer regulations in Fifth Schedule and Sixth Schedule areas, but the Committee's recommendation that land in such areas should not be made available for acquisition was not taken up. Rather, their "if unavoidable" qualifier was translated as: "as far as possible, no acquisition of land shall be made in Schedule Areas" and "where such acquisition

2 Gol [2013f], Section 2, Sub-section (I), part (a), p. 1.

3 *ibid.*, p. 2.

4 *ibid.*, Section 2, Sub-section (I)part (b), number (iii), p. 2.

5 *ibid.*, Section 2, Sub-section (I)part (c), p.2.

6 *ibid.*, Section 2, Sub-section (I)part (e), p.2.

7 *ibid.*, Section 2, Sub-section (I)part (a) and part (b), p. 2-3.

8 "Affected families" are to include land owners, including those assigned land by the government under various schemes and rights-holders under FRA, as well as livelihood losers, i.e., those whose livelihood is primarily dependent on the land being acquired "for three years prior to the acquisition of land", who may or may not own the property (*ibid.*, pp. 3-4). The key point here is that all those do not own land in the traditional sense, but are dependent on it for their living, i.e., agriculture labour, sharecroppers, those dependent on forests or water bodies or hunters, fisher folk etc., or those residing on land that they do not own in urban areas, are covered in the law. Furthermore, Scheduled Tribes and traditional forest dwellers whose rights under FRA have been lost due to the acquisition of land are here referred to as "affected families." However, all are limited by this three-year clause, even when the Parliamentary Standing Committee on Rural Development of 2012 wanted the clause changed to "three years or more."

does take place, it shall be done only as a demonstrable last resort”.⁹

[I]n case of acquisition or alienation of any land in the Schedule Areas the prior consent of the concerned Gram Panchayat or the Panchayats or the Autonomous District Councils, *at the appropriate level* [emphasis ours] in Scheduled Areas under the Fifth Schedule to the Constitution, as the case maybe, shall be obtained, in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act, or any other Central Act or a State Act for the time being in force. *Provided that the consent of the Panchayats or the Autonomous District Councils shall be obtained in cases where the Gram Sabha does not exist or has not been constituted* [emphasis ours].¹⁰

In a glaring omission, which ought to be corrected, the Act makes no reference to adivasis who live in areas that are still not covered by the Fifth Schedule, which is an estimated 50-70 per cent of the adivasi population, according to the National Advisory Council.¹¹

The LARR 2013 lists many features of enhanced compensation and resettlement and rehabilitation plans for affected Scheduled Tribes.¹² These include, inter alia, the following:

- In the case of “involuntary” displacement, preparing a “Development Plan...laying down details of procedure for settling land rights due, but not settled and restoring titles of the Scheduled Tribes as well as Scheduled Castes on the alienated land, by undertaking a special drive along with land acquisition”;
- “The Development Plan shall also contain a programme for development of alternative fuel, fodder, and non-timber produce resources on non-forest lands within a period of five years, sufficient to meet the requirements of tribal communities”;
- “In case of land being acquired from members of the Scheduled Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families initially as first installment and the rest shall be paid after taking over of the possession of land”;
- “The affected families of the Scheduled Tribes shall be resettled preferably in the same Scheduled Area in a compact block so they can retain their ethnic, linguistic and cultural identity”;
- “The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects”;
- “Where the affected families belonging to the Scheduled Castes and Scheduled Tribes are relocated outside of the district, then, they shall be paid an additional twenty-five percent, rehabilitation and resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of fifty thousand rupees”;
- Whenever affected families of Scheduled Tribes are relocated from Fifth or Sixth Schedule Areas to areas outside, “all statutory safeguards, entitlements and benefits being enjoyed by them under this Act shall be extended to the area to which they are resettled”;
- Where the community rights have been settled under FRA 2006, “the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion with his share in such community rights.”¹³

It should be noted that the terminology of some of these clauses recognises the fragility and subsistence nature of existence of the Scheduled Tribe and the Scheduled Area communities being affected, so they are not unknown or unrecognised. However, given what we have so far on the institutional set up that led to failed implementation of PESA and FRA, let us now examine the power dynamics, turf wars and incentives of various actors in the context of the LARR Act.

The preamble to the Act makes much of the Gram Sabha consultation, with its very first sentence stating that, “to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane,

9 *ibid.*, Section 42, Sub-section (1) and Sub-section (2), p. 20.

10 *ibid.*, Section 42, Sub-section(3), p. 20.

11 Choudhury (2013).

12 *Gol* (2013f), Section 42, Sub-section(3), p. 20.

13 *ibid*, Section 42, Sub-sections (4), (5), (6), (7), (10), (11), and Section 43, Sub-sections (2), (3), respectively, pp. 20-21.

participative, informed and transparent process for land acquisition”.¹⁴ Note that Gram Sabha is the only institution of local self-governance to be actually named here, which suggests its role in land acquisition is paramount. However, in reality, and in contravention of yet another suggestion of the Parliamentary Standing Committee on Rural Development of 2012, Gram Sabha’s role is minimal and non-mandatory. While consultation on the required Social Impact Assessments for any area equal to or greater than 100 acres being proposed to be acquired, should involve the Gram Sabhas, but, even in Fifth and Sixth Schedule Areas, other supposedly interchangeable institutions of local self-governance, such as Panchayats, Municipality, Municipal Corporation, etc., are also required to be consulted at the village or ward level (see **Table 6.1**).

It is clear from the sections on PESA and FRA that Gram Sabhas based on habitation, as envisaged for the Fifth Schedule Areas, are very different from those constituted outside Fifth Schedule Areas on the basis of revenue villages; tailor-made Gram Sabhas, though provided for by the Acts, have not been recognised; and Gram Sabhas are different from Panchayats and other local self-governance institutions in terms of their actual functionality and the representativeness of the collective voices of the *adivasi* peoples. Despite the formal significance attached to Gram Sabhas in the opening lines of the LARR Act, its role as seen in **Table 6.1**, is so circumscribed as to be almost non-existent.

Table 6.1: Institutional Provisions under LARR for Determining Land Acquisition

| Institutions | Formation | Role in Implementing LARR |
|--|---------------------|---|
| Community Institutions | | |
| Panchayat or Municipality or Municipal Corporation, as the case maybe at the village or ward level, in the affected area (Gram Sabha is only mentioned in a sub-para of a sub-section (see second sentence in adjacent Column 3 and the related footnote). | Local government | “Whenever the appropriate Government intends to acquire land for a public purpose, it shall consult the Panchayat or Municipality or Municipal Corporation, as the case maybe at the village or ward level, in the affected area and carryout a Social Impact Assessment study in consultation with them, in such manner and from such a date as may be specified by such Government by notification.” ¹⁵ “Provided that the appropriate Government shall ensure that adequate representation has been given to the representatives of the Panchayat, Gram Sabha, Municipality or Municipal Corporation as the case maybe at the stage of carrying out the SIA study.” ¹⁶ |
| State Institutions | | |
| Centre Level | | |
| National Land Acquisition and Rehabilitation and Resettlement Dispute Settlement Authority | National government | Dispute resolution for Central projects |
| National Monitoring Committee | National government | Oversight at Central level |
| State Level | | |
| State Land Acquisition and Rehabilitation and Resettlement Dispute Settlement Authority | State government | Dispute resolution for State projects |
| Chief Secretary Committee | State government | Determine whether projects are for “public purpose” |
| State Commissioner, Rehabilitation and Resettlement | State government | Overall administration for land acquisition and rehabilitation and resettlement in State |
| Project Level | | |
| District Collector | State government | Overall coordination and implementation |

¹⁴ *ibid.*, p.1.

¹⁵ *ibid.*, Chapter II, Section 4, Sub-section (1), p. 7.

¹⁶ *ibid.*, Sub-section (2), p. 7.

| Institutions | Formation | Role in Implementing LARR |
|---|------------------|--|
| Administrator, Rehabilitation and Resettlement (not below the rank of Joint Collector or Additional Collector or Deputy Collector or equivalent official of Revenue Department) | State government | Administrator for project-level rehabilitation and resettlement |
| Rehabilitation and Resettlement Committee (Chaired by the District Collector) | State government | Oversight (elected representatives, civil society and line agencies) |

In the sections on PESA and FRA, we saw the overwhelming negation of “institutions of self-government” (to the extent any actually operate) by powerful State actors and bodies. Let us turn to such dynamics in the LARR 2013. As seen in **Tables 6.1** and **6.2**, the key actors adjudicating and implementing this Bill are not institutions of self-government but those of government, be they national or state level, with definite powerful roles for the Chief Secretary and District Collector. On carrying out the Social Impact Assessment, the Group of Ministers under the chairmanship of the then Agriculture Minister, Sharad Pawar, made amendments to delete the clauses regarding the inclusion of the socio-economic impact of the proposed project on affected families, modifying it to study only the social impacts of the project, the nature and cost of addressing them and their impact on the overall costs and benefits of the project. The independent Expert Group is again to judge whether the project serves any public purpose, and whether the social costs and adverse social impacts of the project outweigh the benefits.¹⁷ Also, an Environmental Impact Assessment is required only in discretionary cases and it is to be carried out alongside the social impact assessment. However, in many instances, not only are such assessments company-sponsored, but in the event where alarming fallouts of projects are presented, they are disregarded.¹⁸

Now it has been established that land maybe acquired in Scheduled Areas, with the only proviso that no land transfer is to happen in contravention of any law (including any order or judgment of a court which has become final).¹⁹ For rehabilitation and resettlement, public hearings are required in every Gram Sabha or Municipality where more than 25 per cent of land belonging to either is being acquired, and that the “consultation” with the Gram Sabha in Scheduled Areas shall be in accordance with the provisions of PESA.²⁰ However, the Administrator, Rehabilitation and Resettlement, after the public hearing, submits his or her report to the District Collector, who passes it on with her/his suggestion to the Commissioner, Rehabilitation and Resettlement, and finally, when the “appropriate Government” is satisfied, the resettlement area is declared.²¹

Table 6.2: Chronological Institutional Process under LARR for Determining Land Acquisition

| State Institutions | Stage | Role in Implementing LARR |
|---|-------------------|--|
| Appropriate level of government | Initiates process | Proposal received by it |
| Appropriate level of government | Pre-notification | Conducts the Social Impact Assessment (SIA) – public hearing must be held to make sure affected families’ views are recorded and included in the SIA. |
| Independent Expert Group (formed by appropriate level of government, to include two non-official social scientists; two representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case maybe; two experts on rehabilitation; and a technical expert in the subject relating to the project)/Chief Secretary Committee | Pre-notification | SIA evaluated by it. Where land to be acquired is above 100 acres, the Chief Secretary’s Committee will further examine the report of the Independent Expert Group |

17 *ibid.*, Section 7, Sub-section (4), p. 8.

18 See Dandekar and Gill (2014) on the Rowghat mining project EIA in Chhattisgarh.

19 *op.cit.* Gol [2013f], Section 2, Sub-section(2), p. 3.

20 *ibid.*, Section 17, Sub-section(5), p. 12.

21 *ibid.*, Section 17, Sub-section(6), p. 12, and Section 18, 19 and 20, p. 13.

| State Institutions | Stage | Role in Implementing LARR |
|---|------------------|--|
| Chief Secretary Committee/ District Collector | Pre-notification | Legitimacy of “public purpose” and SIA is approved. Collector submits report on status of alternative sites and consent of 70 per cent-80 per cent affected families sought. |
| District Collector/Government | Notification | Preliminary notification for any land being acquired must be published within 12 months from the date of the appraisal of the SIA report. Any person interested in the land and having objections, must make them to the District Collector within 60 days of the date of publication of the preliminary notification. Thereafter, Government makes a declaration, and acquires the land. The District Collector makes the compensation awards within a period of two years from the date of publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse. The District Collector is also to determine the market value of the land and therefore, compensation for it. |

Now, on the federal question, for private purchases of land, it is the discretion of state governments to determine the threshold at which rehabilitation and resettlement provisions kick in.²² This means if states are in a downward competitive spiral in terms of attracting private investment, they might not require private companies to rehabilitate or resettle affected families displaced by the proposed project. The Act allows all states to enact any law or policy related to the LARR, provided it does not contradict or reduce the entitlements provided under the Act (it may, on the other hand, increase them²³). However, even though the formula for compensation is—on the face of it—more generous to Scheduled Tribes than others,²⁴ the idea of compensation itself is problematic for many of these tribal communities. For instance, how does one calculate the net present value of the land they are required to give up in view of their deep social, physical, cultural and economic connection to land and the natural habitat, which sustains their lives and livelihoods? How does financial compensation help them if they do not have the skill to manage financial assets?

While the LARR 2013 is too recent to afford us any evidence on its implementation, let us assess the State’s record on rehabilitation and resettlement in general. In this regard, be it mining, land, forest or any other kind of displacement, there appears to be a complete ‘reality gap’ between what is promised to *adivasi* communities and what transpires on the ground.²⁵ On the displacement and relocation of communities from protected areas, based on 28 cases of displacement from all over India since the 1970s, Lasgorceix and Kohli note the following:

- “[For] tribal communities that have been relatively isolated from the outside world, the displacement is traumatic from both economic and cultural points of view....in many cases, free access to survival and livelihood resources such as water, fuel, fodder, medicinal plants and wild foods, has to be replaced by purchasing these goods in the market, which opens up such communities to serious exploitation.”²⁶
- “In the case of land-based rehabilitation, the quality of the new land is an important factor. Often the new land given is degraded forest land. Fertility of such lands varies from good to very poor, and there could be situations where the land is not even cultivable at the time of the shift.”²⁷
- “Equity (or inequity) in distribution of land and compensation during the relocation process is another crucial factor.”²⁸
- “Some families can also have no access to land ownership or land titles in the relocation process. This is particularly problematic where land legally classified as forest is given for relocation, and its legal status is not changed, exposing

22 *ibid.*, Section 2, Sub-section(2), p. 3, and Section 47, pp. 22–23.

23 *ibid.*, Section 109, p.34.

24 *ibid.*, The Second Schedule, p.39, gives rehabilitation and resettlement entitlements for those whose livelihood is primarily dependent on the land, in addition to that for “others” given in The First Schedule, p. 37.

25 Padel, Dandekar and Unni (2013).

26 Lasgorceix and Kothari (2009), p.43.

27 *ibid.*, p. 43.

28 *ibid.*, p. 44.

the relocated population to future uncertainties creation by legislation related to forests.”²⁹

- “For communities dependent on livestock, the availability of grazing lands and fodder is crucial. In many cases no provision was made for grazing land or fodder. The loss of livestock in the relocation process is also quite frequent, which can lead to loss of income.”³⁰
- “For communities heavily dependent on non-timber forest produce or aquatic produce at their traditional locations, there is often a severe loss since the resettlement sites do not have the same kind or level of resources. This impacts both the household economy and in particular aspects like nutrition, as also market economy, and in particular earnings from forest produce.”³¹
- “Another essential aspect is the availability of water sources at the new site. In some cases, displaced people have to face serious issues of water scarcity (for both drinking and irrigation).”³²
- “In some relocation cases there is a drastic change in occupation, with little time for the displaced communities to adjust and learn new skills. For instance, in the case of Maldharis from Gir National Park (Gujarat), pastoralists were forced to shift to settled agriculture at the new site. Most people did not know how to do make this transition, and it took years for people to settle down.”³³

Moreover, as in the case of Andhra Pradesh, 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.³⁴

Thus, in general, the record of the land alienation and dispossession among *adivasis* since independence, which has gained momentum since liberalisation due to avowed ‘development’ aims and projects, is dismal, and compounded (as we saw in the case of FRA) by dysfunctional and complicated land records and administration.³⁵

6.2 DRAFT MINES AND MINERALS (DEVELOPMENT AND REGULATION) BILL, 2011 (MMDR) [APPROVED BY CABINET ON SEPTEMBER 30, 2011]

Mining in the tribal regions [hitherto governed by the Mines and Minerals (Development and Regulation) Act 1957] was drastically affected by Supreme Court’s ruling in the 1997 Samatha judgment. The judgment was instrumental in limiting mining in the tribal regions: it provided various safeguards for tribal rights and gave proactive directions to the State to limit mining in the region. These include, but are not limited to, empowering Gram Sabhas to preserve community resources, enabling mineral extraction by tribals with the assistance of the State, allocation from profits for ecological preservation, preventing the transfer of tribal land, cancellations of certain mining leases and prohibition of new leases. The judgment also directed the setting up of committees and ministerial conferences to create a consistent scheme in respect to tribal lands.³⁶

The 10th FYP (2002-2007) sought ways to overcome the limitation of this judgment, which it considered a hurdle to mining, and suggested further amendments to the existing act. A High Level Committee on the National Mineral Policy was set up. It recommended multiple amendments, which finally took shape as the Draft Mines and Minerals (Development and Regulation) Bill (MMDR), scheduled to replace the existing 1957 Mines and Minerals (Development and Regulation) Act. The Ministry of Mines held nine meetings with ‘various stakeholders’ between August 11, 2009 and April 20, 2010. These involved meetings with state governments, relevant ministries, including the Ministry of Tribal Affairs, and industries. While the issues of displacement and rehabilitation, compensation, and profit-sharing with affected communities were discussed and agreed upon, these are missing from the final draft of the bill. Similarly, organisations like Samatha

29 *ibid.*, p. 44.

30 *ibid.*, p. 43.

31 *ibid.*, p. 43.

32 *ibid.*, p. 43.

33 *ibid.*, p. 44.

34 Rao, Deshingkar, Farrington (2006), p. 5406.

35 Gol (2009).

36 Ramaswamy (1997).

made suggestions to Planning Commission³⁷ and the initial drafts of the Bill were worked on, along with consultations with organisations such as Samatha and mines, minerals and People (mm&P). The final draft presented by the Group of Ministers and approved by the Cabinet in September 2011, however, was whittled down of the many recommendations that aimed to protect tribal areas and rights.

The sidelining of this issue can be seen in the three bare references to Scheduled Tribes and Fifth and Sixth Schedule areas. Clause 6 (6) and (7) suggest that state governments *may* give preference for mining rights *in small deposits* to a cooperative of Scheduled Tribes—the only time the draft Bill actively refers to granting mining rights to tribals is in the case of small deposits. Clause 13 (10) states that mining rights in Fifth or Sixth Schedule areas “*shall* be issued after *consultation* with the Gram Sabhas or District Councils, as the case may be, and in respect of non-Scheduled Areas, after consultation with the District Panchayat” [emphasis ours]. The vocabulary does not empower the Gram Sabhas or District Councils by keeping the role to an ambiguous “consultation”, and moreover suggests that the mining rights *shall* be issued, leaving no scope for any appeal. Similarly, Clause 13 (13) extends the same provisions as above for the case of ‘minor minerals’, where “before granting mineral concession for minor minerals in an area covered by the Fifth Schedule or the Sixth Schedule to the Constitution, the Gram Sabha or the District Council, as the case may be, shall be consulted”.³⁸

The Bill was referred to the Kalyan Banerjee Standing Committee before being tabled in Parliament. The committee suggested in its May 2013 report the following ways to strengthen the case for the tribal region. It suggested that “consultation” be read as “effective consultation” and the objections of the Gram Sabha should not be “lightly ignored” and a “strong valid reason” should be given if the objections are ignored. It also suggested that Clause 6 (7) should be amended to make mining rights to cooperatives “consisting of purely ST persons”.³⁹ The committee further suggested incorporating regulations from PESA with reference to mine closure and environmental legislation. The original bill, however, makes no reference to PESA or the FRA.

While the GoM handling the MMDR has been sidelining the tribal question even after the Standing Committee report, opposition came from the Minister of Tribal Affairs and Panchayati Raj, Kishore Singh Deo. In a strongly worded letter to the Prime Minister’s Office, the ministry drew attention to the method of transference of “mineral rich areas”, which fall under the Fifth Schedule to government-owned mines, which in turn signs MoUs and leases with private companies and corporations that have no tribal representation.⁴⁰ Secondly, State-owned corporations disinvest in the companies thereby opening up the Fifth Schedule tribal land for investment by private players. In a similar letter to governors of states with Fifth Schedule Areas, the ministry recognises the “main threat today is mining in the Schedule V areas” and “beseeches [the governors]... for proactive intervention” in the case of dislocation of tribes and loss of their lands. The letter points out that certain state governments “brazenly distort not only the laws but constitutional safeguards”⁴¹ to further the cause of mining lobbies. In a very strong position, it exhorts the governors of states to “repeal or amend any Act of Parliament or of the legislature of the State or any existing law”,⁴² utilising powers accorded by Article 244 of the Constitution read with Sections 3 and 5 of the Fifth Schedule. This strong positioning of the ministry not only recognises the threat of mining, but also suggests that active intervention from constitutional authorities like the governor should rectify the half-hearted efforts of Parliament and state legislatures.

The Mines and Minerals (Development and Regulation) Bill, 2011 was not tabled in the house until the 2014 elections. Contrarily, as the government spoke about tabling the Bill and agreed to incorporate certain clauses, it also passed a large number of mining projects, which were pending for clearances. Veerappa Moily, the then Minister of Petroleum and Natural Gas, who was also awarded the Ministry of Environment and Forests, gave fast-track clearance to 73 projects in less than two months. One of these projects was POSCO steel plant in Odisha, which apart from being at the centre of tribal land conflict is also in an ecologically sensitive zone.⁴³ This, when Moily had earlier rejected Vedanta’s bauxite mines on the grounds of Tribal opposition. Similarly, coal mines have been given extensions and expansion rights in contravention to multiple acts such as the FRA, the PESA and the Samatha judgment.⁴⁴

37 For instance Kalluri and Rebbapragada (2002).

38 Gol (2011b).

39 Gol (2013g).

40 Minister of Tribal Affairs and Panchayati Raj (2013b).

41 MoTAPR (2013a).

42 *ibid.*

43 Dutta (2014).

44 *ibid.*

Unless the draft bill is strengthened—not only with the recommendations of the Standing Committee, but also by linking it to provisions within PESA and FRA—it will remain a limited legislation. Considering the lineage of the bill, the limitations of its provisions, the reluctance of the government to table it and the wanton clearances issued for mining regardless of various legislative safeguards for environment and tribal areas, we would hesitate in suggesting that even in a modified form, this could provide sufficient protection to the Fifth Schedule tribal population.

6.3 THE INTEGRATED ACTION PLAN (IAP)

The Integrated Action Plan (IAP) was floated by Planning Commission in the Eleventh Plan Period (2007-2012), and was seen to be in tandem with the aims of the Backward Regions Grant Fund. The charge to create an Integrated Action Plan (IAP) to develop tribal and backward districts in Left Wing Extremist (LWE) Areas, however, was taken over by the Ministry of Home Affairs after funds were allotted for it under the 2010-11 budget year, and initially drew on funds from its Security Related Expenditure (SRE) Scheme. It was to be implemented in 34 LWE affected districts (increased to 60 districts) that were identified by the Home Ministry, but has gone on to increase its facilities to 88 districts and has been extended till 2017.

While the original draft of the IAP under Planning Commission was to involve a decentralised model, involving village Panchayats, the Home Ministry turned it into a top-down model, vesting power to implement the scheme to a three-member committee involving the District Collector, the District Forest Officer and the Superintendent of Police. The initial Planning Commission draft IAP was aimed at pressuring the state government into reaching development goals, involving the Panchayati bodies, evolving a system of performance-based evaluation, and disbursal of funds towards focus areas like improving PDS, schools, health centres and implementing the PESA and FRA. The current IAP under the Home Ministry has cut away the Panchayats, replaced the performance-evaluation system with a simple reporting process and centralised the field-level monitoring. The appraisal process rests with the state government (which simply submits whether the allotted money has been spent and the stipulated project has been completed) and the macro-level appraisal continues to be done by the Home Ministry and Planning Commission (See Table 6.3).

The IAP is reductive in its approach to development. It makes ‘Left Wing Extremist’ violence a qualifier for inclusion into the beneficiaries list. Only “those districts where more than 20% of the Police Stations experienced some incidents of Naxal violence”⁴⁵ become a part of the subset of districts qualifying for recognition of development. Through this, the policy suggests that other tribal districts need not be recognised as needing development funds if there has been no recognised Naxal conflict of importance in the district. The subsequent increase in the number of districts under this policy has included those that are buffers to the original 60 districts and meet similar qualifications. This qualifier can be seen in the takeover of the IAP away from the development agenda of Planning Commission and veering more towards the security question of the Home Ministry.

Table 6.3: Institutional Roles under Integrated Action Plan

| Institutions | Formation | Members | Role in IAP |
|--|---------------------|---|---|
| Community Institution | | | |
| Gram Sabha/ Panchayats | Local Government | All adult members of the village/villages defined in the context of Fifth Schedule Areas constitute the Gram Sabha. | No Role |
| State Institution | | | |
| District Level Committee | State government | District Collector, the District Forest Officer and the Superintendent of Police | Concrete proposals for public infrastructure and services |
| State Level Monitoring Committee | State government | Development Commissioner or Equivalent | Field Level monitoring and scrutiny of expenditure |
| Overall Monitoring Committee | Union Government | Planning Commission and Ministry of Home Affairs | Macro-level monitoring |

⁴⁵ Gol (2012b).

The institutional structure itself offers multiple drawbacks. For an already alienated local government, to take the power away from village Panchayats and Gram Sabhas and place it with district administration does nothing to improve the tribal estrangement with the State. Vesting the planning authority with the triumvirate of police, district and forest administration has a two-fold limitation: one, they are expected to regulate the resources for micro-administration at the village level; and two, heretofore these administrative authorities have been unsuccessful in any development policy or confidence building among the villages. To complete the dissatisfaction, there is no mandated consultation with the Gram Sabhas and Panchayats under the IAP, delinking the plans for development from the supposed beneficiaries.

A look at the expenditure under the IAP would suggest this separation of the local government and common population from the decision-making forces has led to projects that are limited in actual development. Around 40 per cent of funds till September 2012 were spent on the construction of roads, while 8 per cent were spent on education (through schools and *anganwadi* centres), and a dismal 3 per cent was spent on healthcare.⁴⁶ This penchant for building roads in these districts can also be seen in the additional sanction of Rs 7,300 crore (almost twice the expenditure under IAP) for the construction of roads in the 'Left Wing Extremist' districts in 2009.

Apart from the above source, the public sources on actual expenditure allocation provide no clarity on specific projects, which are placed under headings such as "road" or simply "other". This is further obfuscated as the expenses reports are stated for the entire district—whether the projects sanctioned are in rural areas or semi-urban or urban is not clarified. The location of these irrigation, education or healthcare projects are also unknown. We do not know if they are actually implemented in the heart of these districts whose development is seemingly the *raison d'être* of the IAP.

While the IAP seeks to be involved in projects of "public infrastructure and services", it still seems to consider the security question—and not development—as paramount. The reason for this is the following: first, despite the existence of the Ministry for Tribal Affairs, Ministry for Rural Development and multiple existing state departments and schemes, the IAP has been led by the Home Ministry; second, the stress on roads may be seen as a way to enhance delivery of services, but conversely it also supplements the Home Ministry's security interventions in the region; third, the determinant is not development across the underdeveloped tribal belt based on the basis of development indices, but rather on the incidence of Left Wing Extremist districts in the region. This identification of IAP as a way of supplementing the Home Ministry's security policy has been posited by Planning Commission members before.⁴⁷

While the IAP has been extended till 2017, Planning Commission wants to distance itself from the current avatar and go back to its development-led policy. The 12th FYP makes this position clear when it says that the existing IAP "dilutes... decentralized participative planning".⁴⁸ They have also said the current model of leaving local development to the district and central level is antithetical to "the letter and spirit of the 73rd and 74th Amendments".⁴⁹

While the IAP seemingly tries to bridge the development gap at the village level, its current version leaves us with an unclear picture. We are not aware as to which development goals have been met, whether the funding has been effectively targeted, what responsibility do the state governments have except accounting for funds, and largely whether a district administration could effectively reach out to the needs of the tribal village clusters.

To sum up, the Land Acquisition Act, The Draft MMDR Bill and the IAP together constitute a legislation-policy superstructure wherein the Scheduled Tribes and Scheduled Areas are addressed as objects of specific interventions within the overall drive towards the national objective of growth. In this sense, it is motivated by objectives very different from those guiding PESA-FRA institutional structure, viz. autonomy and rights. If the latter was the first serious attempt to address the tribal question beyond the over-arching nationalist agenda, the LARR-MMDR-IAP places the tribal areas and tribal population at the heart of the political economy of economy growth in India. To what extent, they reinforce or undermine each other remains to be seen.

46 Jain (2012).

47 Gupta (2011).

48 Gol (2012d), p. 325.

49 *ibid.*

CHAPTER 7

CONCLUSION

In many ways, so much has been written on the *adivasis* of India and their predicament today, that one could argue there isn't anything new to say. It is also such a complicated research area, that only the brave or the foolhardy tread it. However, we argue that it is impossible to analyse India's future path—be it economic, social, cultural or political—without engaging with the fate of 8.6 per cent of its population, sitting on top of the most valuable common property resources in the country.

We began in this report by looking at how the colonial State neatly constructs the 'tribal' and the 'tribal area', when the reality is that of a fluid spectrum of diverse peoples and habitats. A narrative of civilising mission thinly masks the instrumental motives of Empire, both its security and its ever-expanding economic needs.

Independent India fares no better. It continues with the colonial definitions, engaging with *adivasis* at the two levels of ethnicity and presumed area concentration. Identifying the Scheduled Tribe and the Schedule Area for betterment, through the active interventions of the State, its policies towards both are hinged on barely disguised notions of aberrant difference in comparison to the dominant and integration into the mainstream.

An early and idealistic notion of taking an isolationist stance towards tribal populations and areas, especially designated in the Fifth Schedule to allow for autonomy in governance, quickly gives way to a plethora of affirmative actions and on the face of it, progressive stances, many of which—for instance, in education—fail to take account of their own desires and requirements. A good example is missionary boarding schools for tribal children, which would take them away from all that is familiar, to be mainstreamed in dominant culture at a very early age.

Similarly, at an area level, the introduction of Tribal Sub plans sees the State set up an increasingly complicated structure, whereby it tries to drill down to ever narrower categories of space, to best target presumed concentrations of Scheduled Tribe populations ever more perfectly. It targets them for 'development' and 'modernisation', ostensibly. Close on the heels, however, follows a need for 'internal security' interventions in these very areas, to stem disaffection and violent resistance. Such a complicated step dance is very apparent when one traces policy shifts and programmes through the Five-Year Plan periods, as we have done here.

Looking at the socio-economic condition of the tribal people today, decades after Independence, it is apparent that the State's patronising 'development' project aimed at interventions fostering catch-up with the rest of the population has failed—spectacularly. The marginalisation and vulnerability of the *adivasis* comes across clearly in an analysis of recent data on nearly every standard developmental yardstick—poverty, inequality, access to land and other assets, access to health and education. Termed 'development deficit', such a discourse has actually paved the way for the State to intervene on a benign and helpful platform, yet increasingly always shadowed by an 'internal security' battalion.

That this is so unsurprising, given that evidence from data also shows clearly that the State's national project of growth and supposed 'development' for all has weighed disproportionately on the tribal population, forcibly displacing them from their lands, and dispossessing them of their access to common property resources and their livelihoods. This aggressive and voracious push towards an economic agenda in which tribals pay and others benefit has intensified since liberalisation and the Eighth Plan Period.

The only two serious opportunities to atone for past wrongs and historical injustices towards *adivasis* come with the institutional legislative reforms of Panchayat (Extension to the Scheduled Areas) Act of the Eighth Plan Period, and The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of the Tenth Plan Period. Targeted to Fifth Schedule Areas and Scheduled Tribes, and aiming to bestow genuine autonomy to self-govern and the rights to forests and forest produce, their implementation would have been the first serious step on the road to healing a history of exploitation that has fostered deep mistrust.

We argue, however, that the tiers of local government who were ultimately given responsibility, the forces of federalism (which, in this case, allows for a race to the bottom by state governments competing for business) and the political economy of Indian capitalism with its varied pressure groups, worked in a way such that these rare historical opportunities failed to come to anything.

It was fitting then to look at Eleventh Plan Period's Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, The Draft Mines and Minerals (Development and Regulation) Bill and the Integrated Action Plan, all of which together constitute a legislation-policy superstructure wherein *adivasis* and Scheduled Areas fall under specific and heavy interventions only incidentally, in the overall drive towards the national objective of growth. In this sense, their very *raison d'être* is more honestly narrated, even while it is very different to those supposedly guiding PESA-FRA institutional structure reforms, viz. need to promote autonomy and rights for the tribal population.

In conclusion, we emphasize that in the medium term, the way forward in achieving rights, autonomy and development for the tribal people lies in resurrecting the promises and pushing forward the boundaries of the PESA-FRA paradigm. Such institutional reforms, however, will be effective in attaining the desired results only if the following steps, as borne out by the discussions in the previous chapters, are taken:

1. Gram Sabhas should be based on the organic habitation of the community;
2. There should be no ambiguity regarding the roles of the Gram Sabhas and Panchayati Raj Institutions;
3. It should be made mandatory to get the approval of the Gram Sabhas to implement any project in the area;
4. Ensure full participation of women in the Gram Sabhas;
5. The de jure and de facto responsibilities of the Centre and the states should be clearly delineated and there should be mechanisms to deal with state-level inactions;
6. The large ST population outside the Scheduled Areas should be properly recognized and proper steps should be taken to ameliorate their condition;
7. LARR should be made consistent with FRA both within and outside the PESA area;
8. It should be explicitly incorporated within the MMDR Bill that it would adhere to PESA and FRA provisions; and
9. Proper steps should be taken to resolve the tensions between environment ministry, forest department and tribal affairs ministry.

It requires determined and concerted effort to bear upon the Central and state governments to take these necessary steps and to ensure the proper implementation of the Acts in letter and spirit. That is the immediate task at hand for the rights-based development organizations, advocacy and civil society groups, academics, activists as well as political parties who are concerned about the development prospects of the tribal population.

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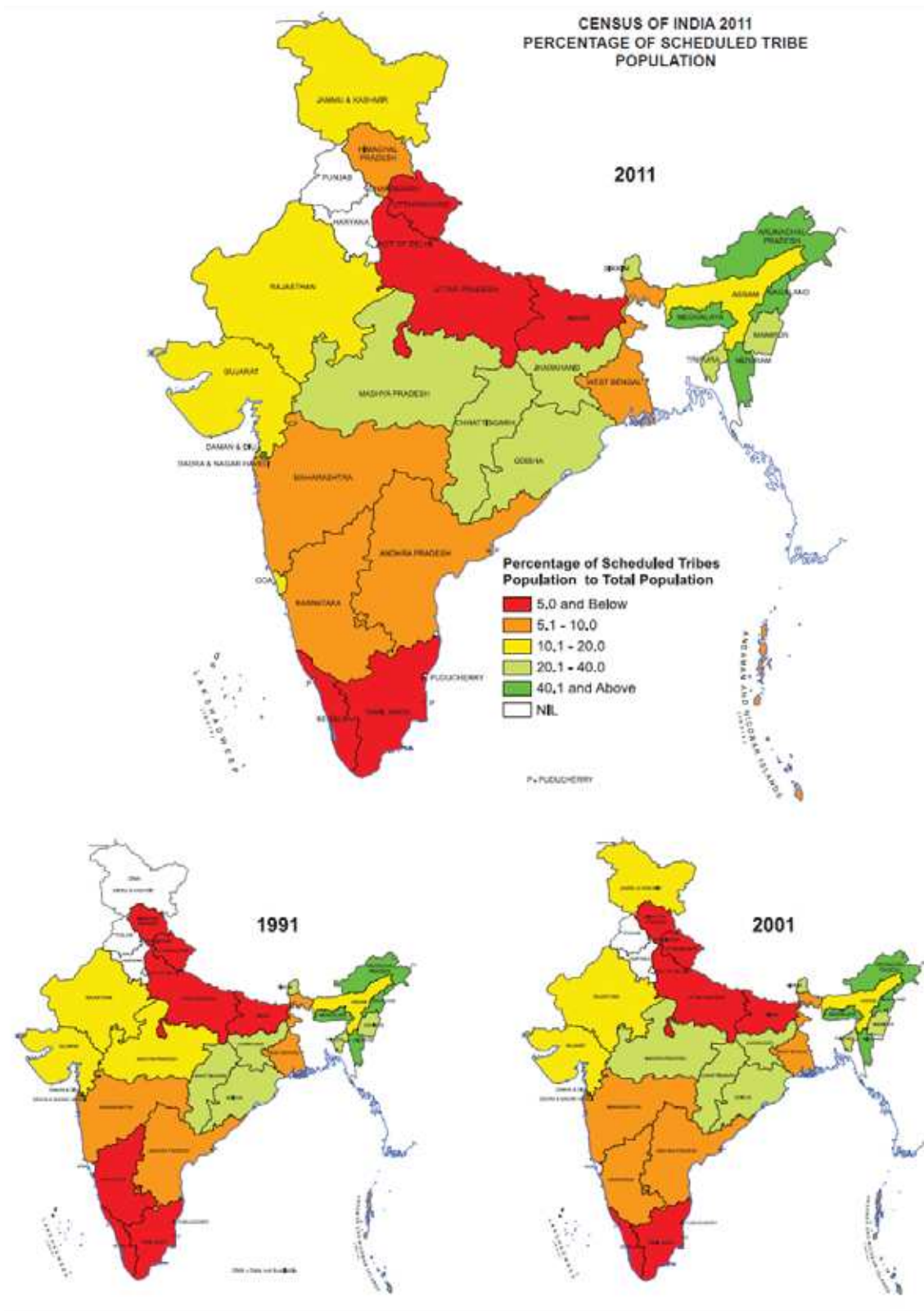
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APPENDIX

MAP 1: GEOGRAPHICAL LOCATION AND CONCENTRATION OF SCHEDULED TRIBE POPULATION



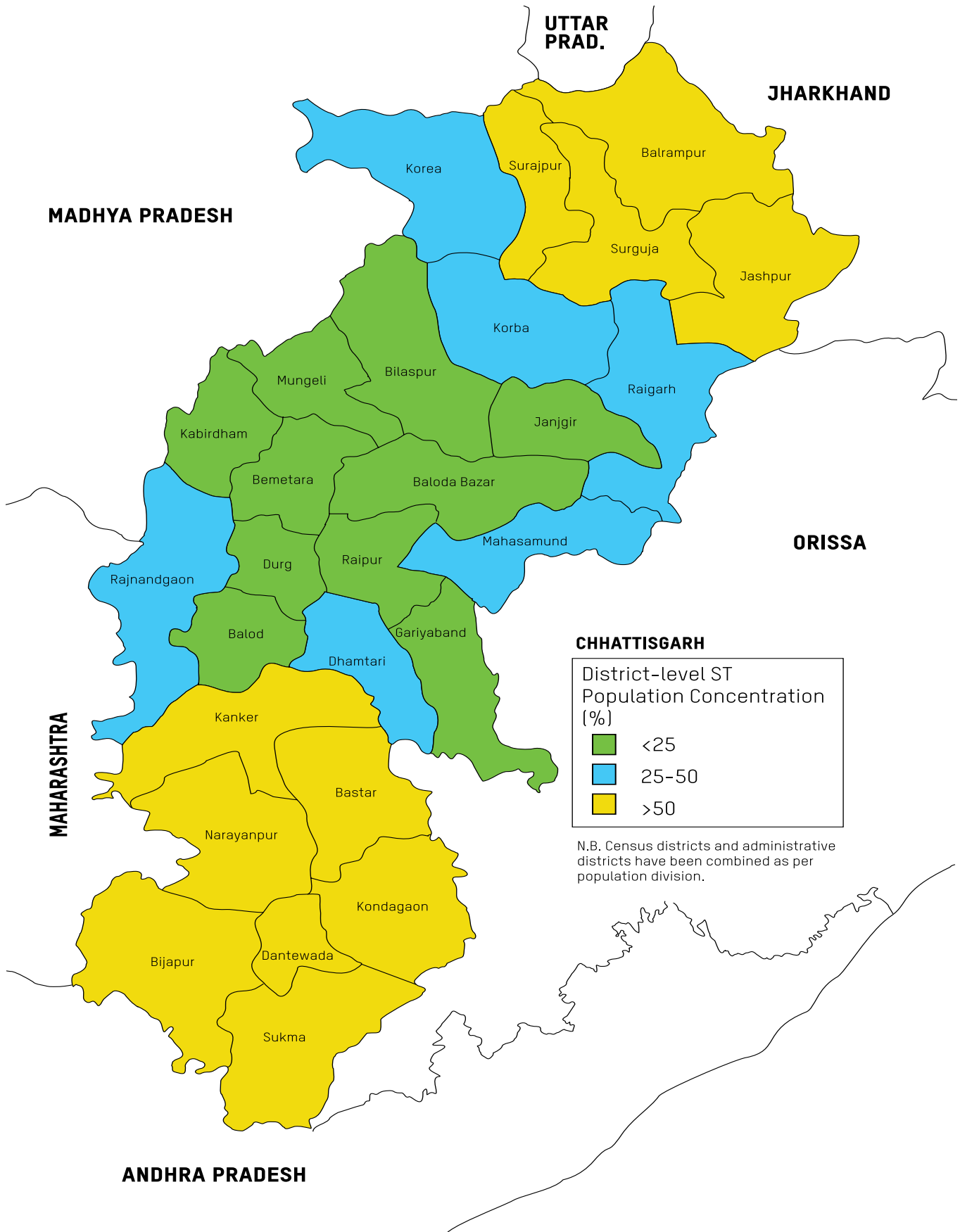
Source: Tribal profile at a glance, May 2013, p. 4, Ministry of Tribal Affairs, Government of India, <http://tribal.nic.in/WriteReadData/CMS/Documents/201305300323522984783TribalProfile.pdf> (last accessed April 15, 2014)

MAP 2: MINERALS MAP



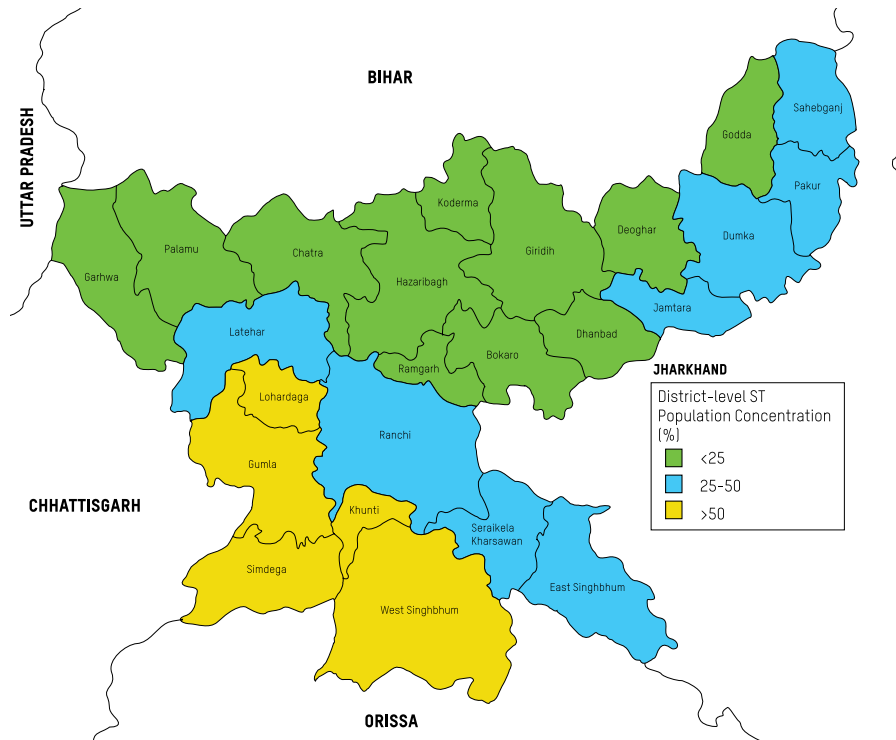
Source: http://cseindia.org/mining/rivers_minerals.htm (last accessed April 15, 2014)

MAP 3: CHHATTISGARH DISTRICT-LEVEL ST POPULATION



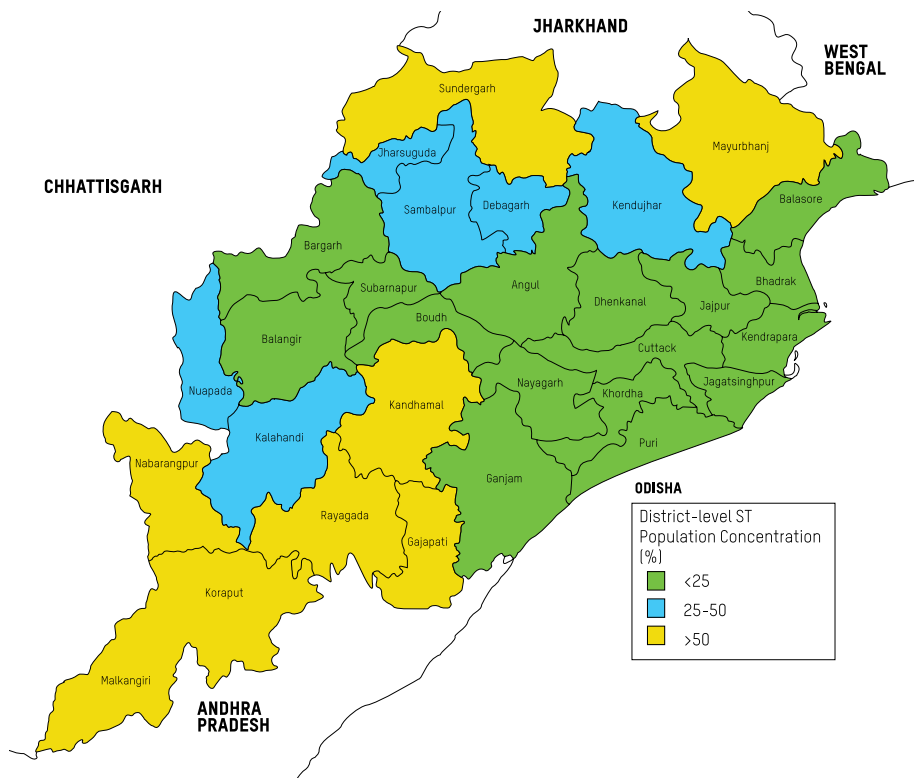
Source: Government of India (2011) 'Demographic Status of Scheduled Tribe Population of India', Ministry of Tribal Affairs.

MAP 4: JHARKHAND DISTRICT-LEVEL ST POPULATION



Source: Government of India (2011) 'Demographic Status of Scheduled Tribe Population of India', Ministry of Tribal Affairs.

MAP 5: ODISHA DISTRICT-LEVEL ST POPULATION



Source: Government of India (2011) 'Demographic Status of Scheduled Tribe Population of India', Ministry of Tribal Affairs.



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