



Land and Cultural Survival

The Communal Land Rights of
Indigenous Peoples in Asia

Edited by Jayantha Perera



Asian Development Bank



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2009

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Foreword

In 1986, the Asian Development Bank (ADB) issued the *Staff Instructions on Socio-cultural Impacts of Bank Projects* identifying “rights of tribal/ethnic minorities, cultural integrity and traditional land use control” as factors affecting the success of development projects. In 1994, ADB revisited the *Staff Instructions*, outlining a broad approach to indigenous peoples issues to ensure that development interventions facilitate informed participation of affected indigenous peoples; foster full respect for their dignity, human rights, and cultural uniqueness; provide them with culturally compatible social and economic benefits; and avoid adverse impacts on them. In 1998, ADB adopted the *Policy on Indigenous Peoples*, which pays special attention to their customary rights over ancestral lands and territories, the legitimacy of their social and economic institutions, and their right to direct the course of their own development.

In 2009, ADB updated the *Policy on Indigenous Peoples* and integrated it into a comprehensive safeguard policy framework to enhance the relevance and effectiveness of its application. In the process, ADB endeavored to reflect on and learn from past experience; respond to changing political and legal contexts; and reflect changing best practices of other multilateral financial institutions and of private sector institutions.

This book focuses on indigenous peoples and their communal land management. The analyses it contains explore how some Asian countries recognize indigenous peoples’ environmental interests and land rights, and engage them in the development discourse. Collectively, the chapters examine how some Asian countries have introduced laws, regulations, and institutional mechanisms to safeguard and promote indigenous interests in areas such as natural resources, communal land management,

and consultative decision making. These analyses are supported with case studies and timely critical reflections.

I thank the contributors to this important book for not only addressing the outcomes of past project experiences but also for providing insights into how the development processes might better accommodate the development needs and aspirations of indigenous peoples. I would like to acknowledge the work of Jayantha Perera in editing the book in his capacity as the focal person for the environment, involuntary resettlement, and indigenous peoples safeguards in the South Asia Department. I hope that this work will catalyze further scholarship on indigenous peoples issues.



Xianbin Yao

Director General

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Asian Development Bank

Acknowledgments

In 2004, the Asian Development Bank (ADB) celebrated with indigenous peoples and international development agencies the completion of the “International Decade of the World’s Indigenous Peoples”. As part of this celebration, ADB organized a workshop to discuss the distinctive relationship between indigenous peoples and their habitat. Ten in-depth case studies were presented and discussed at the workshop held in Manila. This volume contains eight chapters, six of which were selected from the papers presented at the workshop. The other two chapters and the introduction were especially written for this book.

The contributing authors are people from diverse backgrounds who hold different views regarding indigenous peoples, their development rights, and communal land management as a way of life. Their expertise ranges from anthropology to environmental issues, development studies, public administration, forest management, and development practice. It has been a stimulating intellectual exercise for me to discuss each chapter with its author(s) and to agree on the contents, the analysis of data and information, and the presentation. All contributors took a keen interest in writing their chapters in several drafts following the general theme of the volume, that is, communal land management of indigenous peoples in Asia.

As indigenous peoples’ rights, particularly their communal rights over ancestral lands, are becoming part of international law, it is important to share information on such rights and how they are applied in varied sociocultural and political milieus with development practitioners, academics, and the public. It is fascinating to watch how fast indigenous peoples’ interests and rights are being recognized and applied by various countries in Asia and by international development agencies. This book

has attempted to capture the general trends while examining how individual countries have accommodated them, particularly with legislative changes.

The book does not claim to be an exhaustive treatment of the close relationship between indigenous peoples and their communal land rights in Asia. But it presents diverse aspects of the connections between the state and indigenous peoples and shows how such connections affect their worldview, economic survival, and cultural identity. The views and opinions expressed by the contributors reflect their own personal views and convictions; they do not necessarily reflect the views of ADB.

Kunio Senga, director general of the South Asia Department of ADB, encouraged and supported this project, and Xianbin Yao, director general of the Regional and Sustainable Development Department, kindly wrote a foreword to the book. I owe an enormous debt to my guru, Professor Scarlett Epstein, who chaired the workshop in Manila where the preliminary drafts were presented and inspired me to edit and publish this book. Muriel Ordoñez coordinated the production of the book with keen interest and dedication, and Judy Burke diligently edited the manuscript with acuity. Frederick Roche, Nessim Ahmad, Indira Simbolon, Natasha Davis, Jan Van Heeswijk, Ruben Martinez, and Shyamala Abeyratne helped me at various stages of this project. I thank all of them.

Jyantha Perera

Editor

Abbreviations

ADB	Asian Development Bank
BARS	Batang Ai resettlement site
FRA	Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act
ICES	International Centre for Ethnic Studies
ILO	International Labour Organization
IPRA	Indigenous Peoples Rights Act
NGO	nongovernmental organization
PESA	Panchayats (Extension to Scheduled Areas) Act
SALCRA	Sarawak Land Consolidation and Rehabilitation Authority
SLDB	Sarawak Land Development Board
UNDP	United Nations Development Programme
UNOHCHR	United Nations Office of the High Commissioner for Human Rights

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Administering Development in the Third World; Managing Projects That Involve Resettlement: Case Studies From Rajasthan, India; Development Projects and Impoverishment Risks: Resettling Project-Affected Peoples in India; Managing Resettlement in India: Approaches, Issues and Experiences; Can Compensation Prevent Impoverishment: Reforming Resettlement Through Investments and Benefit-Sharing; and India Social Development Report 2008 (Development and Displacement). He has been a consultant to several United Nations (UN) organizations, the Asian Development Bank (ADB), and the World Bank.

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Chapter 6

Tribal Land Issues in India: Communal Management, Rights, and Displacement

Hari Mohan Mathur

In recent decades, indigenous peoples' issues have acquired an important place in the global development agenda. These issues no longer are only the concern of indigenous peoples, anthropologists, and bureaucrats but are also issues of public debate (Rath 2006; Wilmer 1993; Chatty and Colchester 2002; Blaser et al. 2004). The prominence of indigenous peoples' concerns stems from the realization that they have not benefited from development projects, while the mainstreamed societies have prospered at their expense, pushing them deeper into the poverty trap (Mahapatra 1991).

Concentrated in remote and inaccessible areas, usually hills and forests, indigenous peoples are not homogenous groups. They differ from one another not just in terms of their ecology, cultural identity, economic organization, and social and religious practices but also in terms of the nature of their relationship to national political and economic systems (International Labour Organization 1994). One important characteristic they share is that wherever they live, they are at the bottom of economic and social ladders—they are among the disadvantaged groups in any society. In India, where indigenous peoples are known as "tribal people" or "tribals", they are at the bottom of society: they are the poorest, most marginalized, oppressed, and deprived people in the country (Nathan 2004a; Rath 2006).

This chapter focuses on land-related issues in tribal India. The importance of these issues lies in the fact that the tribal people are deeply attached

to their ancestral lands. Davis (1993) refers to this close attachment to the land and the environment as the defining characteristic of indigenous peoples. The discussion is divided into the following sections: (i) who are tribal people? (ii) their communal land management system, (iii) tribal rights to forests, (iv) how the legal system undermines their communal rights, (v) their displacement by development projects, and (vi) conclusions.

Who Are Tribal People?

India's population of over a billion includes 70 million tribal people (8.6%). They are scattered throughout India, but most live in two contiguous areas. The first is the forested hills and mountains of the northeast, and the second is the broad belt of hilly, forested country across north-central India from Gujarat and Rajasthan in the west, through Madhya Pradesh and Chattisgarh, to Jharkhand and Orissa in the east.

The definition of the term "tribe" has long been a subject for discussion among anthropologists, but so far, there is no generally accepted definition (Naik 1968). This leaves unresolved a basic question: Are there peoples who can be identified as tribal? For some scholars, identifying a tribal from a non-tribal is easy. Weiner (1978) claimed that "everyone in Chotanagpur can recognize a tribal. A distinctive racial type, known by physical anthropologists as belonging to the proto-Australoid stock, they are somewhat darker than other Indians and have features that are sometimes Mongoloid in appearance. They live in their own villages, many of which are wholly homogenous....Perhaps the most distinctive feature of tribal life is the very attitude toward life itself. In contrast with their Hindu neighbors, the tribals are a carefree people, hedonistic in their simple pleasures."

Several anthropologists hold the view that a tribe is no different from a caste (Ghurye 1943, 1959; Beteille 1974; Bailey 1960). Tribe as a category, separate from the mainstream caste society, is an invention of the British administrators. As Singh put it, "[T]he notion of a tribe was introduced by colonial administrators. It was part of the universal trend to dichotomize the indigenous peoples and colonizers, the savage and the civilized, the tribals and non-tribals" (1995).

Beteille (1974) discusses four key criteria that have been used to distinguish a tribe from the rest of population: size, isolation, religion, and means of livelihoods. He points out that these criteria fail to support the contention that distinct tribal communities do exist in India. Beteille first considers the criterion of size and notes that anthropologists usually define tribal societies as small-scale social systems. For example, according to Lewis (1968), “[I]deally tribal societies are small in scale, are restricted in the spatial and temporal range of their social, legal and political relations, and possess a morality, religion and world view of corresponding dimensions.” Beteille (1974) agrees that this may be true of many tribes in Africa and elsewhere, but in India, he points out, tribes such as the Santhals, Gonds, and Bhils are large segments of the population, each numbering over a million and scattered over vast territories.

Beteille notes that the second criterion—that tribal societies are isolated and lack contact with non-tribals—is not true of Indian tribal communities, as most of them have long been living in close contact with Hindu castes and other communities. The third criterion—religion—also lacks validity, because India’s major tribal groups do not practice an animism that is distinct from the country’s mainstream Hinduism. In India, animism and Hinduism are often intertwined at the community level. Risley (1905) said that “no sharp line of demarcation can be drawn between Hinduism and Animism. The one shades away insensibly into the other.” This is one reason why some Indian anthropologists identify tribal people as “Backward Hindus” (Ghurje 1959).

Regarding the fourth criterion, livelihood, Beteille notes that the archetypical tribal society lacks a clear division of labor; it does not split up tasks the way settled agriculture and family farming systems do. But Indian tribal populations do not fit that model. For example, the Birhors may follow a hunting and gathering way of life, but even they rely on some specialized households to supply baskets and utensils for daily use. In Jharkhand State, among the Mundas, the Hos, the Santhals, and the Oraons, settled agriculture is widely practiced, and, as Beteille pointed out, the family farm is key to these tribal social systems.

Beteille concluded that in India, “there really is no satisfactory way of defining a tribal society” (1974). On his first contact with tribal people in

an Oraon village in Ranchi district, Bihar (now Jharkhand), he wrote: "I clearly remember my initial disappointment in discovering that, although we had come to investigate proper tribals, the people who confronted us were outwardly no different from the poorer villagers one might find anywhere in rural Bihar or West Bengal."

Tribes in the Indian Constitution

The view that there are no tribal societies in India, as described in the anthropological literature, has now gained many adherents. This raises the question of why the Government of India came up with a list of "Scheduled Tribes" and wrote it into the Constitution. One argument is that historically, the invention and perpetuation of tribalism in India owe everything to the calculations of the governing elite. British administrators with their "classificatory urges" were the pioneers in preparing a list of "primitive tribes", with especially elaborate detail that was based on a 1931 census (Ghosh and Sengupta). In this regard, Beteille says that "it cannot be too strongly emphasized that the list of Primitive Tribes reflects the demands more of administrative and political circumstance than of academic or logical rigour" (1974).

The Indian Constitution refers to tribal people as the Scheduled Tribes, but it does not define tribe. Article 342 of the Indian Constitution declares that the scheduled tribes are "the tribes or the tribal communities or parts of or groups within tribes or tribal communities" that the President may specify by public notification. They were duly specified by the President through the Constitution (Scheduled Tribes) Order of 1950.

In addition to the "Scheduled Tribes", the Indian Constitution names other groups who are considered in need of special protection, such as "Scheduled Castes" and "Other Backward Castes". These communities, which occupy low ranks in India's caste hierarchy, have suffered through the ages socially, culturally, and economically. To uplift these castes, the Constitution provides certain protective measures such as reserving slots for them in education and employment. Some castes have sought recognition as "Other Backward Castes", feeling that they, too, deserve constitutional guarantees. A recent example of accession to that status is the politically powerful Jat community of Rajasthan.

The following were originally used as characteristics for awarding a community the status of a scheduled tribe: (i) the primitive way of living, (ii) habitation in remote and less accessible areas, and (iii) nomadic habits and love for drinks and dance. In 1962, the Dhebar Commission took note of the fact that “the term tribe is nowhere defined in the Constitution and in fact there is no satisfactory definition anywhere” (Dhebar 1962). It proposed a definition of a “tribal area”, recommending that an area be considered eligible if it met the following criteria: (i) preponderance of tribal people in the population, (ii) compact and reasonable size, (iii) underdeveloped nature of the area, and (iv) marked disparity in economic standards of the people. As with earlier criteria, these meet administrative and political decision-making purposes but are rather vague as distinct characteristics of a tribal community.

In independent India, successive governments have continued with the policy of “scheduling” areas, tribes, castes, and other backward classes despite the weaknesses and difficulties embedded in the process. This is primarily because political parties have found that it is easier to win the voters of “Scheduled India” than the voters of mainstreamed India. The scheduled tribes and castes usually have specific demands, and each political party presents solutions to their demands in its campaign in every general election. In several elections, the Congress Party greatly benefited from the support of scheduled castes and scheduled tribes in rural areas because of its elaborate schemes to assist such castes and tribes, listed in its election manifestos.

Race for the tribal status

In recent decades, a view has emerged that there are many more communities that still need to be declared as scheduled tribes, and that the task of identifying such tribal groups should be done by the tribal people themselves. Such self-identification exercises, where carried out, have not only swelled the number of tribal people but also added groups that cannot be considered as tribes by the tribal characteristics discussed above. For example, the scheduled tribal population in the State of Karnataka has increased from 400,000 in 1980 to 2 million in 2000. This increase will continue as many more tribal communities still aspire to become scheduled tribes (World Bank 1999). The main reason is to gain political favors.

In several other Indian states, many non-tribal communities have staked their claims to be listed as scheduled tribes and have even resorted to violence when denied. The current agitation of Gujjars in Rajasthan is a good example.

Scheduling has been criticized for its lack of a systematic and sound basis (Beteille 1986; Baviskar 1995). While certain communities who do not possess tribal characteristics are included in the list of scheduled tribes as a political favor so that they can benefit from the special constitutional guarantees, others who are more deserving have been left out. This is the view of the Gujjar community in Rajasthan, which regard itself as better qualified to be a tribal community than the Meenas, who were among the first to get listed.

A World Bank consultation workshop held in Karnataka in 1998 recommended a list of characteristics that distinguish tribals from others (World Bank 1998):

- Isolation from the urban population
- Tracing of their origin to the oldest sections of the population
- Place of residence confined to scheduled areas
- Separate dialect that does not have a script
- Primitive and animist religious beliefs
- Distinct cultural features
- Particular name for identity
- A simple life
- Few or no links with the market
- A higher status accorded to women
- Production for consumption, not for sale

Communal Land Management

For aeons, tribal people have cultivated land and managed natural resources. Land and forest for them are essentially communal resources to be used according to their present and future needs. The judicious use of common property resources on which they depend heavily has become an integral part of their way of life. "Most indigenous peoples do not view

land as a 'commodity' which can be bought or sold in impersonal markets, nor do they view the trees, plants, animals, and fish which cohabit the land as 'natural resources' which produce profits or rents. On the contrary, the indigenous view is that land is a substance endowed with sacred meanings, embedded in social relations and fundamental to the definition of a people's existence and identity. Similarly, the trees, plants, animals, and fish, which inhabit the land are highly personal beings (often a kinship idiom is used to describe these beings) which form part of their social and spiritual universes. This close attachment to the land and the environment is the defining characteristic of indigenous peoples" (Davis 1993). In a similar vein, a United Nations Development Programme (UNDP) report noted, "Indigenous people often have a special relationship with the land—for many it is still their source of livelihood and sustenance and the basis of their existence as communities. The right to own, occupy and use land collectively is inherent in the self-conception of indigenous people, and this right is generally vested not in the individual but in the local community, the tribe or the indigenous nation" (UNDP 2004).

The traditional communal land system, based on *jhum* (shifting cultivation) of common land, once flourished extensively in tribal areas but now survives only in some remote, inaccessible tracts, mainly in northeastern India among the Khasis, Garo, and Jaintia. It is generally believed that among these tribal communities in the northeast, all lands are necessarily communally owned. But this is a partial truth. There are lands that are owned by the entire village tribal community, but there are also some lands that are owned by the clan members within a village or by individual households (Bordoloi 1998). In several northeastern states, some *jhum* lands are not communal lands but are household property. Among tribes such as Adis, Noktes, and Mihomis, each household owns several plots of *jhum* land. For a few years, a household cultivates a plot and keeps the other plots fallow. Once the soil fertility of the plot diminishes, the household moves to the next plot. This movement lasts over several years. At the end of the shifting-cultivation cycle, a household returns to the first plot of *jhum* land that it had cultivated and starts the cycle again (Bordoloi 1998).

The *jhum* cultivation is also found in some parts of central and eastern India, especially among the Munda, Ho, and Khonds. The Khond society is based on group solidarity (Nayak and Soreng 1993). They have a socialistic

concept of property, and their creed of mutual help is based on the strong conviction that unity is their greatest strength. Their survival down the ages has been achieved by building up this rich community life. Even the layout of their villages reflects it. Houses are built in rows, with shared roofs and verandahs. They say, "We are in touch; we can call out to each other at night if a tiger comes down the street or anyone is ill" (Nayak and Soreng 1993).

The presence of communal land rights does not necessarily imply the absence of individual rights over land in a community. Communal land rights exist in various forms, and in each form, there is room for individual land rights. An individual, however, has access to land resources in a community only as a member of the community. In Nagaland, for example, when timber is extracted for sale from land belonging to an individual, a commission is collected from the buyer by the traditional village council for common village development programs (Roy-Burman 1984). This indicates that communal land rights are primary and that individual rights over land emanate from them.

Traditional communal land tenure systems continue to exist even where formal land tenure systems emphasize individual property rights (Roy-Burman 1986; Mishra 1998). Tribal people in Nagaland State have retained some of their communal land rights even after its integration into the Indian state. In fact, "even the state government has tried to make a synthesis of [common property resources] and the communal system. It has set up Village Development Boards through the authority of the traditional village councils. This ensures that the Board is rooted in the community and at the same time administrative rationality in operations is secured" (Roy-Burman 1992).

The tribal communities continue to follow communal land management systems as long as they serve a purpose. In fact, there are elements in communal land management that can be usefully integrated into tribal development programs, which rely on the active participation by the community. In support of this viewpoint, an Indian government committee chaired by Roy-Burman stated, "There is lot to be said for the view that forests should be managed primarily by the forest dwellers and backed by technical guidance of the Forest Department. This implies that wherever

the community rights exist, they should be recognized and adopted to serve the urgent needs of soil and water management, and reforestation of the denuded tracts by suitable species" (Government of India 1982).

The tribal people face numerous hurdles in trying to maintain their traditional communal land use and natural resource management practices. Some of these obstacles come from demographic changes, resulting from the growth of their own populations and the reduction of their traditional territories, which then make it difficult to continue shifting cultivation. But there are other factors, such as the unhelpful attitude that forest officials adopt, although their job is to assist the forest people. Often, the tribal people know nothing about their rights, and the forest officials exploit their ignorance. As Human and Pattanaik reported: "Various surveys have been conducted to find out what people know of their rights. They reveal confusion at best and at worst complete ignorance. It almost goes without saying that it suits both Forest officials and traders to keep it that way: the more ignorant or confused that people are, the less likely they are to assert their rights and less likely they are to fight exploitation that is perpetually visited upon them" (2000).

The shift to private profit

According to a widely held view, the communal land system is incompatible with the requirements of development. For example, the National Committee on Backward Areas in its report on northeast India advocated the individualization of communal resources for the sake of progress (Government of India 1981). In such an approach to development, tribal peoples face a formidable challenge regarding their efforts to maintain communal land use patterns and natural resource management practices. "Often the lands they use for productive purposes and to maintain historical and spiritual links are not secure and so are being taken over for logging, mining, tourism and infrastructure....And not only their land is being coveted and taken—so is their knowledge. Multinational corporations have discovered its commercial potential, and the race is on to patent, privatize and appropriate" (UNDP 2004).

In recent years, national development processes and the emerging market system have influenced tribal life. One key factor is the conversion of land

under shifting cultivation into land under permanent cultivation or under horticulture or in plantations. In tribal communities of the northeast, this conversion has encouraged the formation of private property. Private land development, leasing, and labor markets are slowly coming into existence (Mishra 1990). As a result of the privatization of forest ownership in the Khasi Hills, there is a large class of farmers who own forests.

Tribal people in India are also experiencing the impacts of globalization, which encourages private ownership. Globalization reaches local communities largely through the market. New goods may be seen on the television or noticed in other ways. But it is through the market that they become available to people. It is also through the market that producers come to know what they can sell. In turn, this growth of the market has led to a process of privatization of formerly communal land, of devolution of ownership from community or clan to the family (Nathan and Kelkar 2004). Tribal communities will find it increasingly difficult to resist the impact of such external forces and hold on to their traditional communal land management system. They themselves are gradually moving toward private ownership of items that they acquire from the market, making class divisions within a community more visible.

Tribal Rights to Forests

The close relationship of tribal people with the forest was described by Elwin (1963) in a poetic yet accurate manner:

To a vast number of the tribal people the forest is their well-loved home, their livelihood, their very existence. It gives them food—fruits of all kinds, edible leaves, honey, nourishing roots, wild game and fish. It provides them with material to build their homes and to practice their arts. By exploiting its products they can supplement their meagre income. It keeps them warm with its fuel and cool with its grateful shade. Their religion leads them to believe that there are many spirits living in the trees. There are special sacrifices to the forest gods; in many places offerings are made to a tree before it is cut, and there are usually ceremonies before and after hunting. Tribal folk-tales often speak about the relations of human beings and the sylvan spirits and it is striking to see how in many of the myths and legends the deep sense of identity with the forest is emphasized....From time immemorial until comparatively recently the tribal

people have enjoyed the freedom to use the forest and hunt its animals and this has given them a conviction, which remains even today in their hearts that the forest belongs to them.

This happy state of affairs for the tribal people was not to last forever, however. From about the middle of the 19th century, people from outside began to move into the forest, lured by its wealth of natural resources, and the colonial government, sensing the commercial potential of forests, gradually extended its authority over them in the name of scientific management.

The first move in this regard came in 1855 when the colonial government issued a memorandum titled "Charter of Indian Forests", which decisively changed the status of large areas of land including forests into government property. Then came the creation of the Forest Department and the passage of the Indian Forest Act of 1865, under which any land covered with trees or brushwood could be declared forest, and the government laid claim to it all. With a stroke, common property resources became a thing of the past. A succession of laws was then passed with the sole purpose of curtailing the traditional rights of tribal people in forests.

In 1952, after independence, a new national forest policy added further restrictions on tribal peoples. For example, under the old policy the forest land could be released for cultivation subject to certain safeguards, and free grazing was allowed. The new policy barred cultivation and required a paid permit for grazing, which was difficult to obtain. Elwin (1963) very aptly depicts the position of the tribal people in the changed circumstances:

Thus the tribal who regarded himself as the lord of the forests, was through a deliberate process turned into a subject and placed under the Forest Department. Tribal villages were no longer an essential part of the forests but were there merely on sufferance. The traditional rights of the tribals were no longer recognized as rights. In 1894 they became "rights and privileges" and in 1952 they became "rights and concessions". Now they are regarded as "concessions".

At the same time, although the new policy expressed ecological concerns, vast forest lands in ecologically sensitive areas were destroyed to make way for big projects or clear-felled to raise revenue for the government.

The National Forest Policy of 1988 was a significant move in favor of both forest conservation and the livelihoods of forest communities. It endorsed the national goal of keeping one-third of the land area for forests, which had been recommended in 1952, and it incorporated specific provisions to safeguard the rights of tribal and other local people. "Indeed, meeting the needs of local populations dependent on the forest eco-system was held to be the first charge on the forest. This meant that forests could not be exploited to meet the raw material demands of industry, nor earn revenue for the state at the cost of the local populations. The policy was, therefore, a significant departure from long-standing forest management practices whose emphasis had been on commercial exploitation and revenue raising" (Human and Pattanaik 2000). However, rules to implement the policy were not put in place until much later, and state governments in the meantime progressively reduced the traditional rights of the tribal people.

The question of forest rights is related to the modern concept of ownership, but notions of the forest people in this regard are quite different. The forest is the pivot around which the tribal life revolves, but for the state, the forest is simply a source of raw materials for industry and revenue for itself. In some states the Forest Department is a major source of revenue for the government. It is no wonder that successive plans, policies, and legislation have resulted in restricting the rights and usage of forests by millions of tribal people for whom forests are their only refuge and source of sustenance.

A new deal for tribes and forest dwellers

In 2006, as a result of a long campaign by forest rights activists, the Government of India enacted a new act entitled "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006". Those in support of the act regard it as the long overdue recognition of the rights of scheduled tribes and forest dwellers to the lands they have occupied for centuries. It will save them from being treated as encroachers and evicted for development purposes without compensation, as has often happened in the past. It is also contended by the tribal rights activists that secure tenurial rights will lead to sustainable management of land. Those who are opposed to the act fear that it will undermine

the fast-dwindling forests and sound the death knell for the endangered tiger population.

The implementation of this law is not going to be smooth. Tribal and forest-dwelling people will not get the rights to forest land automatically. Only those families who have been primarily residing in forest areas for three generations (nearly 75 years) will be entitled. The verification procedures to determine eligibility are not simple and could be quite time consuming, as disputes may arise among the forest-dwelling communities themselves.

The act also prevents the use of forest land for development purposes such as mining, reservoir construction, and industrial plants without the consent of the tribal people who live in forests or in the vicinity through *gram sabhas* (village assemblies). But there is a risk that politically connected commercial interests could manipulate gram sabhas to obtain such lands for commercial purposes. The tribal rights activists also warn against the machinations of some bureaucrats, especially those in the Forest Department who think that the department is the master of all forests in India. This could obstruct the implementation of the act and deny its benefits for tribal people.

Implementing the act is going to get further complicated as the law confronts legal challenges. Some who are opposed to granting tribal peoples forest rights have already filed public interest litigation in the Madras (Madurai Branch) and Andhra Pradesh high courts (Ramakrishnan 2008). The contention of petitioners is that large-scale distribution of forest land will be against the national forest policy, as it will become difficult to keep at least one third of the total land area under forest cover. Skeptical that the promised benefits for forest dwellers will come to pass, Ramnath (2008) concludes that "it is difficult to imagine that so many advantages to tribal peoples will actually be implemented."

Undermining Communal Rights

Land and territorial rights of the tribal people often receive no explicit legal recognition. When laws do recognize such rights, they are seldom

defended in practice, especially if they conflict with wider national development goals. The Panchayats (Extension to Scheduled Areas) Act of 1996, or PESA as it is commonly known, is a major move to recognize the rights of the tribal people over the natural resources that they manage, and on which they depend for their livelihoods. However, the act has not been implemented, and the communal management of forests remains a mere promise. In fact, despite the opposition from tribal people, the forest areas in Orissa and other mineral-rich states are being allocated to corporations to invest in mining and other projects.

Tribal people feel that development projects, especially those of large-scale corporations, will take over more and more of the lands that are in their possession. The most worrisome aspect is the leading role of the state, which is handing over tribal lands to industries and corporations in violation of the Constitution and national laws. The tribal people in Schedule V Areas as defined in the Constitution enjoy certain rights over land, forests, water bodies, and other resources. In September 1997, the Supreme Court of India delivered a landmark judgment upholding these rights of tribal peoples to life, livelihood, land, and forests in a case that dealt with issues of mining in tribal land. Samatha, a nongovernment organization (NGO) in Andhra Pradesh, filed the case on behalf of the affected tribal people. The Supreme Court held that forests and lands in scheduled areas, irrespective of whether owned by the government or by a tribal community, cannot be leased out to non-tribal people or to private companies for mining or industrial uses. It restricted mining activity in these areas to be carried out only by the State Mineral Development Corporation or a cooperative of the tribal people.⁵¹ All leases granted by the state governments were declared to contravene Schedule V of the Constitution and were declared null and void. The judgment, known as Samatha Judgment, is a significant check to restrain the state from encouraging indiscriminate exploitation of land, forests, water bodies, and other resources for commercial purposes, especially in tribal areas.

The central government and state governments, however, chose to file an application to the Supreme Court in early 2000 asking for a review of the Samatha Judgment. The court dismissed the request, but efforts to cir-

⁵¹ *Samatha v. State of Andhra Pradesh* A.I.R. 1997 S.C. 3297.

cumvent the Samatha decision—which reinforced constitutional protections for tribal people—are continuing. Under pressure from multinational corporations, the Government of India as well as state governments are still looking for an escape route. In July 2003, the Government of Orissa went as far as constituting a state subcommittee chaired by the chief minister to discuss the implications of the Samatha Judgment. The committee concluded that the judgment is not binding on the state. The reasoning was that there are enough laws in the state to ensure protection of tribal interests and that therefore, Orissa could stay outside the purview of the Supreme Court's ruling. On the basis of this interpretation, the government decided to allow the transfer of land in areas covered by Schedule V of the Constitution for mining and industrial purposes. This is a patently wrong inference because the ruling was applicable to all states (Down to Earth 2005).

After the Samatha judgment, the Government of India issued executive instructions in 1998 to set up systems for consulting with the gram sabhas and detail the procedure for land acquisition in Schedule V areas. But in Orissa, the state government circumvented the gram sabhas and gave their power to the *zila parishad* (divisional councils). This was a manipulation of the PESA that undermined its intent and effectively denied tribal people their rights to be consulted on land acquisition for projects (Mahapatra 2005).

Displacement by Development Projects

Tribal lands are rich in hydrologic, mineral, oil, gas, forest, and other resources, and this easily makes them the most attractive sites to locate development projects of various kinds. Thus, many development projects in India are located in areas that are densely inhabited by tribal people. For multinational companies looking for investment opportunities, these areas are fast becoming the most favored destinations (Centre for Science and Environment 2008; Mathur 2006). The fact is there is no such territory not coveted by some international corporation for its mineral wealth, its oil deposits, its pastures, its forests, its medicinal plants, its suitability for commercial plantation, its water resources, or its tourist potential (UNDP 2004).

One would normally expect a resource-rich region to be a boon for tribal people. In India, the rich natural endowment has, however, been of little avail to them. On the contrary, large-scale development projects undertaken in tribal areas have physically evicted significant numbers of tribal people. Tribal people constitute 8.6% of India's population, and about 40% of them have been displaced by development projects (Fernandes 2008).

Until recently, dams were a major cause of displacement, but projects in other development sectors are now quickly catching up. Urbanization and transport are among the development sectors that have seen a rapid rise in the number of persons displaced by development projects. In parks and protected areas, as many as 600,000 tribal people have been physically displaced (Society for Participatory Research in Asia 1993). One important aspect of parks and protection-area development is that such programs often do not physically displace communities but restrict their access to forest produce on which they have traditionally subsisted. Such communities lack other skills to survive in different environments. Giesler (2003) argues that displacement from conservation efforts contributes to impoverishment in multiple ways. Conservation refugees are often poor at the outset of their ordeal. They are victims of displacement in part because of their combined poverty and powerlessness, which is then compounded by forced removal.

Development projects tend to displace tribal people more than others. A United Nations Environment Programme report (2003) cites the examples of the Karjan and Sukhi reservoirs in Gujarat State that displaced only tribal people. The Balimela Hydro Project in Orissa State displaced a large number of people, 98% of whom were tribal people. Equally disastrous were the consequences for tribal people affected by the Upper Kolar Dam. In this project, they constituted 96% of the total affected population. According to the World Commission on Dams (2000), "Overall, 40 to 50% of those displaced are estimated to be tribal people, who account for barely 8% of India's total population of over a billion." A recent estimate is that at least 55% of those displaced by development projects in India are tribal people (Government of India 2004).

Much of the physical displacement could be avoided by careful planning. Large-scale displacement often occurs because of the callous attitude of

the project authorities who acquire land. Often, they acquire large areas of land, which then turn out to be much more than needed and remain unused. In some cases, large areas are acquired for intended industries without proper planning. Such acquisition of land leaves the evicted people landless, without giving them in return any employment. Appa and Patel (1996) recount similar cases of unnecessary displacements from Gujarat that tore many lives asunder.

Displacement from common property resources

Tribal people suffer from physical displacement mainly because of the laws that do not recognize communal customary rights of tribal people to their territories. The resettlement literature is full of case studies of how development projects ignore the customary rights of the tribal people and treat them as illegal occupants of government land. Such an approach invariably leads to the impoverishment of once settled communities, just the opposite of what development promises. For example, in the Upper Indravati Hydroelectric Project, the tribal people were forcibly removed from their lands despite having *patta* (legal title to land). In addition, they were given no compensation for losing their common resources—pastures, forest lands, water bodies, burial grounds, and quarries. Without those resources, their income and quality of life significantly deteriorated (Nath and Behera 2006).

Tribal people who are moved for development projects are impoverished by this loss of access to natural resources (Cernea 2006). “Such impoverishment is even more pronounced when people have to move from resource rich areas such as those targeted for conservation” (Fabricus and de Wet 2000).

For many tribal and forest-dwelling communities, grazing lands, forests, ponds, fisheries, wildlife, riverbeds, and other such shared resources are a major source of sustenance. For example, 70% to 80% of the non-timber forest produce that forms a major component of many households’ income comes from common resources (Beck and Ghosh 2000). Development projects that involve involuntary resettlement abruptly terminate access to these resources. Sometimes it happens because the relocation site lacks similar resources. More often, it happens because the

resettlement planners fail to consider the livelihood and social and cultural identities of the people they are moving. No thought is given to the important role of common resources in their lives. And because communal resources are considered government properties, the resettlers are given no compensation for losing access to them. For those without private land or other assets, the consequences generally prove catastrophic.

Displacement from common property resources has its harshest effects on women, because they are generally the ones who gather or otherwise control the use of those resources. Firewood collection emerges as a major issue. In the Upper Krishna Irrigation Project, for example, nearly two thirds of the women reported the unavailability of fuel wood and fodder (Picciotto et al. 2001). In resettled areas of Kohadia villages in Korba in Madhya Pradesh State, women have no option but to buy firewood from markets instead of collecting it freely from nearby forests. This puts a serious drain on household budgets (Ganguly Thukral 1996).

In tribal areas, it is women who generally control farm production and household economy, and hence their dependence on common property resources for earning or saving income is greater than that of men. The loss of access to those resources "results in the emergence of an unemployed and unemployable 'housewife' who is increasingly not only perceived to be but becomes almost solely dependent on her husband. Additionally, access to resources in the post-displacement scenario is almost always mediated via husbands, who now assume the role of 'sole' bread earners" (Dewan 2008).

There is a growing realization that projects that relocate people must compensate those who are dependent on common property resources (Koenig and Diarra 2000). Not doing so will only lead to impoverishment among people who give up their livelihoods for the sake of development. That is not a happy development outcome.

Disastrous displacement effects

Involuntary resettlement worldwide seems to have been overwhelmingly disastrous for tribal people. Anyone would be harmed by displacement, but it is particularly disruptive of tribal livelihoods and cultures. They have

to leave behind their land and the forests that are their sources of livelihood. They have no skills to start any other activity for a living. Thus, development projects in most cases have impoverished them economically (Cernea 1998; Mathur 1999; Mathur and Marsden 1998).

The projects have also seriously wounded them socially and spiritually. People who are forced to relocate have to begin life anew in places that may be totally unfamiliar, if not altogether hostile. They have often lost their community, because the group they have been part of for generations is split up. With long-established social networks gone, economic recovery becomes doubly difficult, and people are left to face an uncertain future in straitened circumstances. The trauma of resettlement is exacerbated for tribal people because of their close spiritual ties to their homeland and their apprehension that once they move, their way of life will be lost forever (Padel and Das 2008).

As the World Commission on Dams (2000) pointed out, "Due to neglect and lack of capacity to secure justice because of structural inequities, cultural dissonance, discrimination and economic and political marginalization, indigenous and tribal peoples have suffered disproportionately from the negative impacts of large dams, while often being excluded from sharing in the benefits." They face relatively more risks of impoverishment because they rarely go to courts to vindicate their rights or get the wrongs redressed. The legal system is cumbersome, dilatory, expensive, and often weighted against them because of their poverty, illiteracy, and low social status. Officials tend to deny them even what they are due by law. It is common for the officials to keep the project cost low by calculating cash compensation for land that is below the real value of the property.

Displacement is rarely achieved without the use or threat of force. In projects where tribal people are involved, displacement is sometimes carried out in a ruthless manner. Any sign of resistance invites police intervention. In Kacheipadar and Sunger, two villages of Orissa, a study team found overwhelming evidence of excessive use of coercive methods by district authorities against the tribal population who refused to move. Hundreds of people, including young boys and girls, were arrested. Tear-gas shells were fired in Kacheipadar to disperse crowds. In the Sunger area, Utkal Alumina International Ltd. let loose security guards to harass the villagers.

An elderly woman in Sunger village informed the observers that she had never in her life seen police until this incident and that now, policemen were frequently knocking on her door.

Compensation, a critical issue in resettlement planning, is seldom addressed satisfactorily (Cernea and Mathur 2008). Impoverishment that tribal people encounter soon after displacement mainly arises from delayed payment of compensation and the exclusion from compensation calculations of the common property resources on which they largely subsist (Mahapatra 1991). In addition, tribal people have little or no experience in handling large amount of cash. As a result, compensation paid in cash rarely helps them regain their previous standard of living. It quickly slips through their fingers for weddings and other festivities or ill-planned business enterprises. Yet, there continues to be heavy emphasis on issuing compensation in cash. Perera (2000) found even NGOs in the Singrauli region supporting cash compensation rather than other options that would generate livelihoods. Not only is cash compensation culturally inappropriate, but it leads to underpayment because of flawed valuation methods. For tribal people, the best settlement strategy would be to receive land to replace the land lost. This alternative, however, often is rejected because land is scarce.

Cultural ignorance in resettlement planning

Many sites developed to resettle tribal people fail to attract them, as the communal character of their culture has not been taken fully into account. People are moved to an environment completely different from what they know. On arrival, they discover to their dismay that forests, pastures, and other common property resources that sustained them in their original environment do not exist. Additionally, resettlement disrupts their communal life when they are moved not as an integrated social unit but broken randomly into groups because there is no area large enough for the original community.

Tribal people leave the relocation site when they find that there is no forest land for collecting timber, firewood, and other forest products and no grazing land for their cattle. For example, the people of Karna-ka Bas from the Sariska Project Tiger Reserve who first moved to Sirsawas and Bandipal found that the resettlement site lacked any communal resources. When

they tried to return to their original village, the Forest Department would not let them in. They had to manage their own resettlement on the fringes of Kiraska and Kundelka, the two adjoining villages (Mathur 1997).

What makes resettlement sites particularly unattractive, often resulting in their complete abandonment, is the neglect of sociocultural aspects of tribal life in the planning process. Mathur found this to be the case in colonies built for the Bhil tribals displaced by the Kadana Dam on the Mahi River: "The colonies that the government agencies especially built for rehabilitation did not attract the Bhil oustees. The prospect of living in new settlements, with civic amenities not in accord with their lifestyle, was not very attractive. Like tribals elsewhere, the Bhils are deeply attached to their soil and their hamlets on forested hilltops, which are dispersed and separated from one another by long distances. Living in clustered colony conflicts with their traditional dispersed pattern of living on top of their own forested hills...No wonder, then, that the number of oustees actually relocated to colonies is small, except in the colony at Dungarsaran.... The popularity of Dungarsaran as a resettlement sites lies in the fact that it comes closest to the hilly forest setting of a tribal village" (1997).

Similarly, a lack of attention to the sociocultural concerns of the tribal people backfired in a resettlement colony set up in Andhra Pradesh. The Gond tribals from two regions found their customs and manners so incompatible that they could not live together at the same place. One group then left the colony. People brought together from antagonistic segments are bound to carry with them the traditions of their past antagonism, making living together an impossible arrangement. Roy-Burman (1968) reported that such ignorance of tribal histories is a frequent reason that resettlement sites fail.

Conclusion: Tribal People in a Globalizing World

In tribal areas, the communal management of land and other resources is facing a major challenge from markets and globalization. Communal systems are being rapidly transformed, with far-reaching consequences that Nathan and Kelkar (2004) have aptly described as "civilizational change."

Globalization, although seen as a threat to the survival of tribal people, could work to their advantage (Naim 2003). It has indeed made it possible for them to organize, raise funds, and network with other groups around the world, with greater political reach and impact than before (UNDP 2004). Without networking globally, the Narmada Bachao Andolan (Save the Narmada Campaign) against dams on the Narmada River could not have become a rallying point for attack against projects that displace people not only in India but all over the world.

Addressing the concerns of indigenous peoples will require global, national, and corporate policies that advance human development goals (UNDP 2004). International institutions are already looking for ways to mitigate some of the problems, including acknowledging the right of indigenous peoples to land in their territories and respecting their traditions and cultures. For example, the World Bank in 2001 commissioned a review of extractive industries to determine how such projects can assist in poverty reduction and sustainable development. Based on extensive discussions, the review recommended public and corporate governance that works on behalf of the poor, effective social and environmental policies, and respect for human rights as key pillars of poverty reduction and development in areas where such industries are concentrated (World Bank 2004).

In today's globalizing world, the concerns of indigenous peoples can no longer be ignored or suppressed. They have become better organized and capable of demanding equality in sharing benefits from development projects in both national and international forums, and they are searching for ways to overcome obstacles to the eradication of their poverty and underdevelopment (Gonzalez-Parra 2001). "Indigenous peoples have dynamic living cultures and seek their place in the modern world. They are not against development, but for too long they have been victims of development and now demand to be participants in—and to benefit from—a development that is sustainable" (Magga 2004).

References

- Antony, P., H. Dayal, and A.K. Karan, eds. 2003. *Poverty and Deprivation Among Scheduled Tribes in India*. Delhi: Institute for Human Development.

- Appa, G., and G. Patel. 1996. Unrecognised, Unnecessary and Unjust Displacement: Case Studies From Gujarat, India. In McDowell, C. *Understanding Impoverishment: The Consequences of Development-Induced Displacement*. Providence/Oxford: Berghahn.
- Bailey, F.G. 1960. *Tribe, Caste, and Nation: A Study in Political Activity and Political Change in Highland Orissa*. Manchester: Manchester University Press.
- Baviskar, A. 1995. *In the Belly of the River: Tribal Conflicts Over Development in the Narmada Valley*. Delhi: Oxford University Press.
- Beck, T., and G.M. Ghosh. 2000. Common Property Rights and the Poor. *Economic and Political Weekly*. 35 (3): 147–53.
- Beteille, A. 1974. *Six Essays in Comparative Sociology*. Delhi: Oxford University Press.
- . 1986. The Concept of a Tribe With Special Reference to India. *Archives of European Sociology*. 37: 297–318.
- Bhatia, B. 1997. Forced Evictions in the Narmada Valley. In Dreze, J., M. Samson, and S. Singh, eds. *The Dam and the Nation: Displacement and Resettlement in the Narmada Valley*. Delhi: Oxford University Press.
- Blaser, M., H.A. Feit, and G. McRae. 2004. Indigenous Peoples and Development Processes: New Terrains of Struggle. In Blaser, M., H.A. Feit, and G. McRae, eds. *In the Way of Development: Indigenous Peoples, Life Projects and Globalization*. London and New York: Zed Books in association with the International Development Research Centre.
- Bordoloi, B.N. 1998. Tribal Land Tenure System and Land Alienation in North-East India. In Mishra, S.N., ed. *Antiquity and Modernity in Tribal India* (vol. 3: *Ownership and Control of Resources Among India Tribes*). Delhi: Inter-India Publications.
- Cerneia, M.M. 1998. Impoverishment or Social Justice? A Model for Planning Resettlement. In Mathur, H.M., and D. Marsden, eds. *Development*

- Projects and Impoverishment Risks: Resettling Project-Affected People in India*. Delhi: Oxford University Press.
- . 1999. Development's Painful Social Costs: Introductory Study. In Parasuraman, S. *The Development Dilemma: Displacement in India*. London: Macmillan.
- . 2006. Re-examining 'Displacement': A Redefinition of Concept in Development and Conservation Policies. *Social Change*. 36 (1): 8–35.
- Cerneia, M.M., and Mathur, H.M., eds. 2008. *Can Compensation Prevent Impoverishment: Reforming Resettlement through Investments and Benefit-Sharing*. Delhi: Oxford University Press.
- Chatty, D., and M. Colchester. eds. 2002. *Conservation and Mobile Indigenous Peoples: Displacement, Forced Settlement, and Sustainable Development*. New York and Oxford: Berghahn Books.
- Centre for Science and Environment. 2000. *State of India's Environment: Fifth Report. Part I: National Overview*. Delhi.
- . 2008. *State of India's Environment: A Citizen's Report 6 (Rich Lands and Poor People: Is Sustainable Mining Possible?)*. Delhi.
- Council for Social Development. 1999. *Report on the Visit of a Team of the Council for Social Development to Rayagada and Bhubaneswar on 11–18 January 1999*. Delhi.
- Davis, S.H. 1993. Introduction. In Davis, S.H., ed. *Indigenous View of Land and the Environment*. Washington, DC: World Bank.
- Dewan, R. 2008. Development Projects and Displaced Women. In Mathur, H.M., ed. *India Social Development Report 2008: Development and Displacement*. Delhi: Oxford University Press/Council for Social Development.
- Dhebar, U.N. 1962. *Report of the Scheduled Castes and Scheduled Tribes Commission*. Delhi: Government of India Press.

Down to Earth. 2005. Orissa's on Overdrive: Has the State Overcommitted Itself? Why Has Delivery Become So Fragile? 13 (22): 27–29.

D'Souza, A. 2001. *Traditional Systems of Forest Conservation in North East India: The Angami Tribe of Nagaland*. Guwahati: North East Social Research Centre.

Elwin, V. 1963. *A New Deal for Tribal India*. Delhi: Government of India/Ministry of Home Affairs.

Fabricius, C., and C. de Wet. 2002. In Chatty, D., and M. Colchester, ed. *Conservation and Mobile Indigenous Peoples: Displacement, Forced Settlement, and Sustainable Development*. New York and Oxford: Berghahn Books.

Fernandes, W. 2008. Sixty Years of Development-Induced Displacement in India: Scale, Impact, and the Search for Alternatives. In Mathur, H.M., ed. *India Social Development Report 2008: Development and Displacement*. Delhi: Oxford University Press/Council for Social Development.

Ganguly Thukral, E. 1996. Development, Displacement and Rehabilitation: Locating Gender. *Economic and Political Weekly*. 31 (24): 1500–03.

Geisler, C. 2002. Endangered Humans: How Global Land Conservation Efforts Are Creating a Growing Class of Invisible Refugees. *Foreign Policy*. May–June: 80–81.

———. 2003. A New Kind of Trouble: Evictions in Eden. *International Social Science Journal*. 55 (1): 175.

Ghurye, G.S. 1943. *The Aborigines, So Called, and Their Future*. Delhi: Oxford University Press.

———. 1959. *The Scheduled Tribes*. 2 ed. Mumbai: Popular Book Depot.

Gonzalez-Parra, C. 2001. Indigenous Peoples and Mega-Projects: Hydroelectric Dams in the Land of Pehuenches in the Highlands of the Bio Bio River, Chile, Utopia of Development and Human Rights. In

van Genugten, W., and C. Perez-Bustillo, eds. *The Poverty of Rights: Human Rights and the Eradication of Poverty*. London and New York: Zed Books.

Government of India. 1976. *Report of the National Commission on Agriculture* (vol. 9: Forests). Delhi: Ministry of Agriculture and Irrigation.

———. 1981. *National Committee on the Development of Backward Areas: Report on North East Region*. Delhi: Planning Commission.

———. 1982. *Report of the Committee on Forests and Tribals in India*. Delhi: Ministry of Home Affairs.

———. 2004. *Draft Policy for Tribals*. Delhi: Ministry of Tribal Affairs.

———. 2007. *The National Rehabilitation and Resettlement Policy, 2007*. Delhi: Ministry of Rural Development.

Ghosh, A., and N. Sengupta. 1982. Nationality Question in Jharkhand. In Sengupta, N., ed. *Fourth World Dynamics: Jharkhand*. Delhi: Authors Guild.

Hirsch, P. 1999. Dams in the Mekong Region: Scoping Social and Cultural Issues. *Cultural Survival Quarterly*. 23 (3): 37–40.

Human, J., and M. Pattanaik. 2000. *Community Forest Management: A Casebook From India*. Oxford: Oxfam.

International Labour Organization (ILO). 1994. *Indigenous and Tribal Peoples and the ILO*. Geneva.

Koenig, D., and Diarra, T. 2000. The effects of Resettlement on Common Property Resources. In Cernea, M.M. and C. McDowell, eds. *Risks and Reconstruction: Experiences of Resettles and Refugees*. Washington: World Bank.

Magga, O.H. 2004. Indigenous Peoples and Development. In United Nations Development Programme (UNDP). *Human Development Report*

- 2004: *Cultural Liberty in Today's Diverse World*. New York: Oxford University Press.
- Mahapatra, L.K. 1991. Development for Whom? Depriving the Dispossessed Tribals. *Social Action*. 41:3.
- . 2005. Tribal Rights and Entitlements in Land, Forest and Other Resources. Paper prepared for the UNDP Orissa Resettlement Policy Project.
- Mathur, H.M. 1997. *Managing Projects That Involve Resettlement: Case Studies From Rajasthan, India*. Washington, DC: World Bank.
- . 1998. Field notes on a visit to Gopalpur, Orissa. January.
- . 1999. The Impoverishing Potential of Development Projects: Resettlement Requires Risk Analysis. *D+C Development and Cooperation*. 6 (November/December).
- . 2006. Globalization, Displacement, and Impoverishment Risks: Large Corporations and Tribal Peoples in Orissa, India. Paper presented at the Working Group on Involuntary Resettlement, Environmental Risks and Sustainable Development, at IAPS/Bibalex Conference on Environment, Health and Sustainable Development, Alexandria, Egypt. 11–16 September.
- Mathur, H.M., and D. Marsden, eds. 1998. *Development Projects and Impoverishment Risks: Resettling Project-Affected People in India*. Delhi: Oxford University Press.
- Mishra, S.N. 1990. Tribal Peasant Strategy, Market Integration and State Policies in North-East India. *International Social Science Journal*. 42 (2).
- . 1998. *Antiquity to Modernity in Tribal India*. Vol. 3: *Ownership and Control of Resources Among Indian Tribes*. Delhi: Inter-India Publications.
- Naik, T.B. 1968. What Is a Tribe: Conflicting Definitions. In Vidyarth, L.P., ed. *Applied Anthropology in India*. Allahabad: Kitab Mahal.

- Naim, M. 2003. An Indigenous World: How Native Peoples Can Turn Globalization to Their Advantage. *Foreign Policy*. November/December 2003: 94–95.
- Nath, N., and D.K. Behera. 2006. The So-called Development, Displacement and Dispossession: An Analysis on Land and Forest Rights of the Project Affected People. In Sarkar, R.M., ed. *Land and Forest Rights of the Tribals Today*. Delhi: Serials Publications.
- Nathan, D. 2004a. The Future of Indigenous People. *Seminar 537*. May: 33–37.
- . 2004b. Northeast India: Market and the Transition From Communal to Private Property. In Nathan, D., G. Kekar, and P. Walter, eds. *Globalization and Indigenous Peoples in Asia: Changing the Local-Global Interface*. Delhi: Sage Publications.
- Nathan, D., and G. Kekar. 2004. Civilizational Change: Markets and Privatization Among Indigenous Peoples. In Nathan, D., G. Kekar, and P. Walter, eds. *Globalization and Indigenous Peoples in Asia: Changing the Local-Global Interface*. Delhi: Sage Publications.
- Nathan, D., G. Kekar, and P. Walter, eds. 2004. *Globalization and Indigenous Peoples in Asia: Changing the Local-Global Interface*. Delhi: Sage Publications.
- Noronha, R., and F.J. Lethem. 1983. *Traditional Land Tenures and Land Use Systems in the Design of Agricultural Projects*. (World Bank Staff Working Paper No. 561). Washington, DC: World Bank.
- Padel, F., and S. Das. 2008. Cultural Genocide: The Real Impact of Development-Induced Displacement. In Mathur, H.M., ed. *India Social Development Report 2008: Development and Displacement*. Delhi: Oxford University Press/Council for Social Development.
- Patwardhan, A. 2000. Dams and Tribal People in India. Paper prepared for Thematic Review 1.2: Dams, Indigenous People and Vulnerable Ethnic Minorities. World Commission on Dams.

- Picciotto, R., W. van Vicklin, and E. Rice. 2001. *Involuntary Resettlement: Comparative Perspectives*. New Brunswick and London: Transaction Publishers.
- Rajagopal, B. 2001. In Asia, Ethnic Cleansing in the Name of Progress. *International Herald Tribune*. 10 August.
- Ramakrishnan, V. 2008. Hope and Fear. *Frontline*. 25 (4): 4–8.
- Ramnath, M. 2008. Surviving the Forests Rights Act: Between Scylla and Charybdis. *Economic and Political Weekly*. 43 (9) 37–42.
- Rath, G.C., ed. 2006. *Tribal Development in India: The Contemporary Debate*. Delhi: Sage Publications.
- Risley, S.H. 1905. *The People of India*. 2 ed. Calcutta: The Ethnological Survey of India.
- Roy-Burman, B.K. 1968. Forests and Tribals in India. In Vidyarthi, L.P., ed. *Applied Anthropology in India*. Allahabad: Kitab Mahal.
- . 1984. *Towards Poverty Alleviation Programmes in Nagaland and Manipur*. Delhi: Mittal Publications.
- . 1986. *Communal Land System of the Tribals and Problems of Institutional Finance in Manipur and Tripura*. Delhi: Council for Social Development.
- . 1992. Historical Process in Respect of Communal Land System and Poverty Alleviation Among Tribals. In Fernandes, W., ed. *National Development and Tribal Deprivation*. Delhi: India Social Institute.
- Singh, K.S. 1995. The Scheduled Tribes in India: A Profile. Paper prepared for the World Bank Delhi Office. Patna: Asian Development Research Institute.
- Society for Participatory Research in Asia. 1993. Doon Declaration on People and Parks. Resolution of the National Workshop on Declining

Access to and Control Over Natural Resources in National Parks and Sanctuaries. Forest Research Institute. Dehradun. 28–30 October.

Thukral, E.G., and M. Singh. 1995. Dams and the Displaced in India. In Mathur, H.M., and M.M. Cernea, eds. *Development, Displacement and Resettlement: Focus on Asian Experiences*. Delhi: Vikas Publishing House.

UNDP. 2004. *Human Development Report 2004: Cultural Liberty in Today's Diverse World*. New York: Oxford University Press.

United Nations Environment Programme. 2003. *Environmental Refugees*. Nairobi.

Weiner, M. 1978. *Sons of the Soil*. New Jersey: Princeton University Press.

World Bank. 1998. A Summary of the Proceedings and the Main Conclusions Arising From the Consultations Held on the Approach Paper for the Revision of Operational Directive 4.20. B.R. Hills, Karnataka. 5 August (draft). Delhi: World Bank.

———. 1999. *The World Bank Policy on Indigenous Peoples: India Consultations on the Approach Paper for Revision of Operational Directive 4.20*. Delhi: World Bank.

———. 2004. *Striking a Better Balance: Extractive Industries Review Final Report*. Washington, DC: World Bank.

World Commission on Dams. 2000. *Dams and Development: A New Framework for Decision-Making*. London and Sterling, VA: Earthscan Publications Ltd.

Land and Cultural Survival: The Communal Land Rights of Indigenous Peoples in Asia

Development in Asia faces a crucial issue: the right of indigenous peoples to build a better life while protecting their ancestral lands and cultural identity.

An intimate relationship with land expressed in communal ownership has shaped and sustained these cultures over time. But now, public and private enterprises encroach upon indigenous peoples' traditional domains, extracting minerals and timber, and building dams and roads. Displaced in the name of progress, indigenous peoples find their identities diminished, their livelihoods gone.

Using case studies from Cambodia, India, Malaysia, and the Philippines, nine experts examine vulnerabilities and opportunities of indigenous peoples. Debunking the notion of tradition as an obstacle to modernization, they find that those who keep control of their communal lands are the ones most able to adapt.

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