

LAND ALIENATION IN TRIBAL AREAS OF ORISSA:

An Exploratory Study

*Dissertation submitted to the Jawaharlal Nehru University
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MASTER OF PHILOSOPHY

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21 July, 1994

Certificate

Certified that the dissertation entitled **Land Alienation in Tribal Areas of Orissa: An Exploratory Study** submitted by **Ram Narayan Dash** is in partial fulfilment of the requirements for the award of the degree of **Master of Philosophy** of this University. This dissertation has not been submitted for any other degree of this University, or any other University and is his own work.

We recommend that this dissertation may be placed before the examiners for evaluation.


21-7-94
Prof. G.K. Chadha
Chairperson


Dr. Saraswati Raju
Supervisor

In loving memory of my mother

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Ram Narayan Das

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CHAPTER : ONE

INTRODUCTION

CHAPTER - 1

INTRODUCTION

1.1 BACKGROUND INFORMATION

Contemporary India is a fantastic mosaic of fishing boats and trawlers, of cowherds and milk processing plants, of village blacksmiths & steel mills, of handlooms & nuclear reactors. Its 850 million people live in tiny hamlets and camps of nomadic entertainers; in long-settled villages and slowly decaying old towns; in suburban ghettos and burgeoning metropolitan cities. Naturally, the demands of this remarkable mosaic on the country's resources are exceedingly varied. Landed peasants want the less fertile lands around villages to graze their cattle, the lend-lease to scratch it to produce some grain, the forest departments to produce marketable timber. Peasants want the mountain valley to grow paddy, power corporation to construct hydro-electric dams.

The resources so varying in demand are regulated in equally varying ways. There are sacred ponds which are not fished at all, and beach seiners recognize customary territorial rights of different fishing village, even though none of this has any formal legal status. Many tribes in north-eastern India own land communally and put it to shifting cultivation, an ownership pattern recognized by law. Village common lands, used as grazing grounds, and wood-lots were once controlled by village communities; they are now government land under the control of revenue or forest department.

There are tenants who cultivate lands that belong to absentee landowners, though much of the land under cultivation is now owned by the tiller. A good bit of the land cultivated by tribals is, however, legally state-owned; this is part of a vast government estate which covers over a quarter of the country's land surface, mostly designated 'Reserved Forest'.

A whole range of these resources, regulated and utilized in many different ways, is under tremendous stress. A majority of shepherds in peninsular India have given up keeping sheep for want of pastures to graze them. The shifting cultivators of north-eastern India have drastically shortened their fallow periods from a traditional fifteen to a current five years.¹ All over, peasants have been forced to burn dung in their hearths for want of fuelwood, while there is insufficient manure in fields. Ground water levels are rapidly going down as commercial farmers sink deeper and deeper bore-wells.

In this ancient country, while harbours what is undoubtedly the most heterogeneous of cultures on earth, these resource shortages have given rise to an amazing range of adjustments, collusions & conflicts. However, the

1. Gadgil & Guha, 'This Fissured Land', New Delhi: O.U.P., pp.2-3.

country is living on borrowed time. It is eating, at an accelerating rate, into the capital stock of its renewable resources of soil, water, plant and animal life.²

Thus, human activities have already caused significant damage to ecosystem. The situation in India is alarming as it is elsewhere in the world. The actual forest cover in India is 19.47 per cent of the geographical area of the country, against the desirable optimum level of 33.3 per cent. The report of the National Remote Sensing Agency (NRSA) released in mid - 1984 had some disturbing revelation to make.³ Based on the interpretation of satellite data, it shows that while in 1972-75, 16.89 per cent of the total land area of the country was under forest covers, by 1980-82 it had dwindled to 14.10 per cent. In other words, the total tree cover in 1975 was 55.52 m. ha. While in 1980-82 it came down to 46.35 m.ha, i.e., a total loss of 9.17 m. ha. Thus, India has been losing on an average, 1.3 m. ha. of forest annually, although the forest department claims that only 0.15 m. ha. of forest is lost each year.⁴ The maximum deforestation was at Madhya Pradesh, being 18 lakh hectares while Orissa registered a loss of 9 lakh hectares.

2. Ibid., pp.4-6.

3. Walter Fernandes, 'Forest, Environment & Tribal Economy', pp.3-17.

4. Ibid.

Thus, the optimum requirement of 33 per cent forest cover is not even met as placed by the National Commission for Agriculture of 1976. Not more than 10 per cent of the actual forest area is estimated to be under adequate tree cover. Further, according to NRSA which breaks down the forest cover into closed forest, open or degraded forest and mangrove forest, between the two periods i.e., 1972-75 & 1980-82, the closed forest has declined from 14.12 per cent to 10.96 per cent the open forests have increased from 2.67 per cent to 3.06 per cent, the mangrove forest dropped from 0.099 per cent to 0.081 per cent. This means a loss of 10.4 m. ha. of closed forest and 63000 ha. of mangrove and 1.29 m. ha. of good closed forest has been converted into degraded forest.⁵ The state of Orissa's forest cover may not be that alarmingly less as the national average, but it has steadily been dwindling over the years. The Forest Department puts the forest cover of the State at 38.48 per cent, well above the required 33.5 per cent, but satellite image shows an altogether different picture. Only 20 per cent of the State's geographical area is under forest cover.⁶

Thus, deforestation has indeed become widespread despite the good picture painted by the Forest Department.

5. Ibid., 3.

6. V.P. Agarwala, 'Forest in India', p.16.

Depletion of forest resources affects the people in general and the tribals in particular. Any change in the forest eco system affects the tribals directly. The symbiotic relationship of the two cannot be ignored. Land is important for tribals as more than 90 per cent of them are dependent on agriculture and allied activities.⁷ Their economy is primarily agro-based. The emotional attachment of tribals to land can be perceived only when one witnesses the situation of a tribal land being snatched away from them. As seen from the Census figures, there has been sharp fall in the percentage of tribal cultivator, consequently affecting an increase in the agricultural labourers. The cultivators decreased from 68.18 per cent in 1961 to 54.43 per cent in 1981, while the agricultural labourers have increased from 19.7% in 1961 to 32.67 per cent in 1981.⁸ Further, on analyses of the 1991 Census of Workers and their distribution, we see that there has been a steep fall in cultivators, i.e. from 54.43 per cent in 1981 to 43.14 per cent in 1991. The number of agricultural labourers has slightly decreased from 32.67 per cent in 1981 to 27.88 per cent in 1991, indicating migration of tribal labourers to other industrial sectors.⁹ This is indicative of the

7. Census of India: 1991. ST & SC Tables, Paper-1 of 1993.

8. Moonis Raza of Aijazuddin Ahmad, An Atlas of Tribal India, 1990, p.387.

9. Census of India: 1991 Provisional Population Totals. Workers and Their Distribution, Paper-3 of 1991.

disturbing trend of land-alienation.

The incidence of land alienation varies from state to state. According to the Sample Survey conducted by the Department of Rural Development in 1988, about 30 to 55 per cent of the tribal households have been affected by land alienation. It also shows that about 80 per cent of land was alienated to the non-tribals. Another tendency highlighted by the survey was that in certain areas, although the tribals are the official owners of the land, the non-tribals have become its virtual owners. This is a common feature in the Terai regions of Uttar Pradesh in the North to Nilgris of Tamil Nadu in the South.¹⁰

1.2 SCOPE OF THE STUDY

The State of Orissa offers ample scope for study as it has a vast number of tribal population, who have been under pressure due to land encroachment by non-tribals as well as the aftermath of developmental activities. Since independence, Orissa has been on the way to development rather slowly and all the resource base of the State appears to be located only in hilly tracks and are forest based. This results in deforestation in most cases as the 'reserved forest' classification doesn't necessarily prevent tree-

10. V.P. Agarwal, op.cit., p.18.

felling. There has been shortcomings also in legal measures for checking alienation of land belonging to scheduled Tribes in the Scheduled areas of the State.

The Orissa Scheduled Areas Transfer of Immovable Property Regulation (1956) has been promulgated with effect from 4th October 1956. Similarly, necessary protective provisions have been made under Sections 22, 23, 23A, 688, etc., of the Orissa Land Reform Act, 1960 for the benefit of Scheduled Tribes in the non-scheduled areas of the State.¹¹ On recommendations of the Tribal Advisory Council the Scheduled Areas Transfer of Immovable Property Regulation Act of 1956 has been amended and has been in force since 21st Jan.1989.

The new Act empowers the magistrate to try cases of land alienation. By the end of March 1990, 12279 such cases were filed of which 11459 were disposed of. But the number of cases in which property was restored was only 4958.¹²

In the State, indebtedness, developmental infrastructure, encroachment and personal sale figure as the

-
11. The provisions of the Orissa Land Reforms Acts, 1960 and the Orissa Scheduled Areas Transfer of Immovable Property Regulation, 1956 have been discussed in detail in the chapter 'Legislation and its implications'.
 12. Philip Viegas, 'Encroached and Enslaved', New Delhi:ISI, p.53.

four main cause of land alienation.¹³ Among these, indebtedness stands out as the primary cause of land alienation. Due to increased pressure of population coupled with alienation of land, the size of the holdings in tribal areas have been reduced in varying degrees from place to place.

There has been instances of a marginal increase in the number of 'other workers'. This is accounted for by a displacement of cultivators from their land for various reasons but largely due to acquisition of their land for public projects. The analysis also indicates immigration of the tribal labourers to other areas due to depletion of land resource base in their own areas.¹⁴

This problem has been intensified either due to inadequate legal provisions or lack of implementation of the existing legal provisions. The tribal panchayats also have a role to play in protecting the tribal interests in land.¹⁵ To cite an example for inadequacy in legal provisions, there is no law to regulate transfer of land from tribal to

13. Department of Rural Development, Sample Survey of Tribal Development Blocks, 1988.

14. Ibid., 10.

15. The Panchayat revolution has seen the village level councils gaining significance in terms of mobilising public opinion against all forms of social evils and unlawful practices.

tribals. Similarly, there is no provision to make the State a party in all proceeding which might save the tribal from long drawn litigations.

Thus, the problem at hand provides the researcher avenues for further inquiry into the socio-cultural as well as demographic & economic implications of increased land loss amongst tribals.

1.3 LITERATURE SURVEY

The tribal people in India have been the objective of occasional research and study for many decades both before and after the advent of independence. A few researchers have romanticized them while painting an idyllic picture of primitive and naive simplicity of a life of dance and song, of ritual and colour. Researchers have, of course, not been able to ignore the reality of the heart-rending poverty in which the tribal masses are steeped in, and of the heinous forms of exploitation to which they are subjected. Thus, for reasons known and unknown, the tribals have received much attention of the researches in the recent times. Research on tribal-related problems can broadly be classified as the situation in pre-Independence period and the one in the post-Independence period. While surveying the available literature, only major research works have been selected.

Pre-Independence Situation

The pre-independence India is a matter of debate and intellectual exercise. The historical evidence of the pre-independence situation in India, however, suggests at least three major trends.¹⁶ First, there was colonization and establishment of settlements by the peasant castes and others, who were encouraged by the Mughal rulers and Zamindars to reclaim land for which they were offered various incentives. Trade and strategic routes passing through the jungle regions acquired importance.¹⁷ Secondly, many tribes, such as Bhils, Murias, Kolhas and Gonds were recognized as dominant communities by the Mughal emperors.¹⁸ Thirdly, and the most important of all, is the "rise of state power" either out of the tribal matrix as in the case of Gonds and Chero or as a result of imposition on the tribal system of the authority of the Rajputs and other castes which established their power in the highlands of Orissa, Central India, Gujarat and Rajasthan.¹⁹

16. Rao, B.V., 'Land Alienation in Tribal Areas', 1988, p.36.

17. Ibid.

18. Russell & Hiralal, 'The Castes & Tribes of the Central Province of India', 1916, p.26.

19. Ibid.

The entry of the colonialism into the tribal regions of India through the various forms broke the communal mode of production and attributed judicial nature of the regions by way of adopting survey and, hence, the emergence of the private right on land.²⁰ The entrance of the colonial state into these areas and the restrictions imposed by them on the tribals was restricted voluntarily. Their challenge had taken the shape of insurrections witnessed in all the tribal belts of the country from time to time. Gradually the repressive method was replaced by the missionary approach, when, the colonial administrators started showing great interest in the study of the tribal communities.²¹

It was in this context of guarding the colonial interests that the tribal studies in India had been taken up.²² The important tribal studies by and large were initiated around 1870. And significantly even the laws related to the tribal affairs were promulgated during this period. The literature and information network helped the colonial master to enact the laws and frame the policies. The overall result of these studies indicate that on one hand they enriched the subject of anthropology and on other,

20. Gadgil and Guha, op.cit., p.15.

21. B.V. Rao, op.cit., p.41.

22. Ibid.

in their guise of knowing things, the weak links of the tribal societies which had helped the colonial masters to a great extent had been identified. But a positive aspect of all these studies was that they were, in one way or other, helped the academicians to initiate research in tribal India.

One of the pioneering works on the problem of our study, i.e., land alienation can be seen as early as 1916, when R.V.Russell and Hiralal published their work, 'The Castes and Tribes of the Central Province of India. Russell & Hiralal discuss how the Bhils and the Korkus were ousted from their original habitats by the invasion and infiltration of superior agricultural peoples. It was in the 12th century A.D. that the Rajput invasion wrested ownership of the aboriginal tribe of Central India.²³ In the second half of the 18th century, the Marathas conquered western Central India and invited various agricultural Hindu castes to settle and cultivate the lands of the tribes. The result was that the tribals were either driven by force or withdrew peacefully to remote and infertile tracts."²⁴

Post-Independence Situation

Soon after independence, several studies were

23. Russell and Hiralal, op.cit., p.46.

24. Ibid.

undertaken by administrators as well as academicians. Even the government had constituted a number of committees to study some specific and general issues through the commissioner for Scheduled Castes and Scheduled Tribes.

The Asiatic Society; the Anthropological Society of Bombay; the Gujarat Research Society; the Ethnographic and Folk-culture society, Lucknow; the Cultural Research Institute in West Bengal; Bharat Adimjati Sevak Sangh, New Delhi and its branch at Nellore, Andhra Pradesh; A.N. Sinha Institute of Patna; I.C.S.S.R.; and the Ministry of Home Affairs, have done a great deal of research on the tribal life. V. Raghavaiah, the pioneer social worker of tribal development, has made several attempts to analyze the tribal life in Andhra Pradesh as well as in other parts of the country.²⁵ His works have given a good chronological sketch of the tribal revolts in India and has presented a review of the problems of the tribals. Though they have their merits, proper attention has not been paid to the 'land issue' in the tribal areas. The only, however, mentions that land has been the cause for many tribal revolts.²⁶

25. Raghavaiah, V., (i) 'Tribal Revolts' and (ii) 'Tribes of India', 1975.

26. Ibid., 22(i).

The study of M.L. Patel²⁷ is a pioneering effort on the land problems in Madhya Pradesh. The effort of M.L. Patel to establish a causal relationship between the tribal unrest or restlessness and the loss of land has raised many issues. He has also developed a methodology which would be useful for doing research on the subject in future.

The contribution of Dube and Ratna Murduia²⁸ to the subject of land alienation and restoration is also commendable. Their edited work containing a number of articles on the subject, provides an excellent data bank and background source. However, it has not escaped from the traditional interpretation of the issue.

But, Arun Sharma²⁹ has highlighted the problem by touching the basic issues related to the problem. However, his work remains as a mere compilation of statistical work and no in depth analysis has been made about the problem. He provides a list of legislations that were passed from time to time.

27. M.L. Patel, 'Changing Land Problem of Tribal India', 1979, p.66.

28. Dube & Murdia, 'Land Alienation & Restoration in Tribal Communities of India', 1977, p.56.

29. Arun Sharma, 'Land Problems in Eastern India', 1981, p.41.

Kulkarni's³⁰ study on Harsal tribes of Maharashtra touches upon the resource utilization (land utilization), land relation & housing conditions. The study falls under the structuralist approach and argues for proving certain incremental benefits and for improving the existing condition but does not see the root cause that lies somewhere else in the land phenomenon.

N.Patnaik's study on Narayanpatna and Raruban, two multipurpose tribal development blocks in Orissa mentions several aspects of land alienation. He discusses the role of non-tribal landlords for usurping the land of the tribals. According to him, however, the identification of cases of illegal transfer of land is a difficult question.³¹

R.N. Pareek's ³² study on the Jatapus had analysed the life of the tribals of the eastern ghats of Andhra Pradesh. It covers certain areas of the Bhadrageri taluk of the Srikakulum district giving details of the forms of exploitation and the role of the 'sahukar' in the economic

30. M.G. Kulkarni, 'Problem of Tribal Development: A Case Study', pp.53-72.

31. N. Patnaik, 'A Study of Two Tribal Development Blocks in Orissa', 1986, p.34.

32. R.N. Pareek, 'Tribal Culture in Flux: The Jatapus of the Eastern Ghats', 1977, pp.44-64.

sphere of the Jatapus. The main observations of the author are that the presence of the Komities and other non tribal people, had control over the "choicest and fertile land", and that the majority of the tribals were the victim of this process of appropriation. Giving the picture of th land holding pattern of the area, he analyses the factors behind the concentration of the land in the hands of the non tribal trader-cum-landlords.

P.R.G. Mathur's paper on "Transfer & Alienation of Tribal, Land & Indebtedness in Kerala", explains the role of transfer of land and dispossession of the tribal lands in the areas of Wynad, Attaprad, Nenmeni, of the Kerala state. The study identifies the link between the indebtedness and the transfer of land ad establishes the futility of the legal methods which have largely failed to protect the landed interests of the tribals. The study, unlike other traditional studies, recognizes the land issue as a problem arising out of the existing property relations in tribal areas, but ends with the structuralist suggestions, like urging for an institutional agency in the cooperative sector to arrest the activities of the money lender.

B.K. Roy Burman³³, commenting on the pattern of the land alienation, also fails to explain the "dynamic nature"

33. B.K.Roy Burman, 'The Tribes:The Modern Phoenix', 1975, p.21.

of the land problem. He identifies two main reasons behind the problem of land alienation, viz. emergence of a new class of commercial and industrial entrepreneurs among the tribals through exogenous interaction.

Verrier Elwin³⁴, writing in his book on NEFA, makes the following observations on the land problem: "In other parts of India (other than NEFA) where the tribal communities have declined, in many ways, the first cause of their depression was the loss of their land and forests". If we look back over the long series of tribal rebellions against authority, we see that the majority of them arose over this point.³⁵ Thus, the Kol insurrection of 1883 were caused by encroachment on the tribal land. The Tamor Rebellion which repeated seven times between 1789 and 1832 were primarily due to the illegal deprivation of their rights in land, which the Hos, Mundas & Oraons had suffered.³⁶ J.H. Hutton³⁷ too, had remarked in his work that the best land of the tribals had been passed into the hands of outsiders; and this is the basic problem of under development.

34. Verrier Elwin, 'A Philosophy for NEFA', 1960, p.57.

35. K.Singh, 'Social Movements among the Tribes', 1986, p.62.

36. Ibid.

37. J.H. Hutton, 'Modern India and the West', 1970, p.37.

Setu Madhava Rao³⁸, in his study of the Gonds of Adilabad, hits at this point and vividly explains how they have been appropriated for their resource, especially from their cultivable lands. He also discusses the phase-wise transformation for the tribal lands from the community orientation to the chief aim system to Deshwant system of land holding and its effects of ruination of the Gond life.

Stephen Fuchs, in his article "Land Scarcity and Land Hunger", in K.S. Singh's edited work³⁹, narrates the land problem but only with a limited perspective. K.S. Singh also mention the manipulation adopted by non tribals which have gone invariably in contravention of the land transfer regulations.

S.D. Kulkarni⁴⁰, who exclusively deals with the land problem in Maharashtra tribal areas, exposed the dubious and pro landlord nature of the legislations. He also narrates how the tribal peasants have suffered in the hands of the government officials in getting the rehabilitation amounts sanctioned. In addition to this, he observes that the

38. Setu Madhava Rao, 'Among the Gonds of Adilabad', 1971, p.63.

39. K.S. Singh, 'Tribal Situation in India', 1972, p.131.

40. S.D. Kulkarni, 'Land, Tribals and Litigation', 1981, p.56.

falsifications of land records in connivance with the landlords created the land scarcity in tribal areas.

An Atlas of Tribal India,⁴¹ by Moonis Raza and Aijazuddin Ahmad deals with various demographic and socio-economic aspects of the Indian tribes upto the Census period 1981. By the help of maps and statistics, the authors have clearly depicted the population distribution, growth pattern and rural-urban growth in the country. The work, even though it doesn't deal directly with the land alienation problem, yet provides enough background information for the research to prepare for rigorous research work.

A renowned anthropologist, Prof. Haimendorf was a pioneer on studies in tribal Telangana. Though his contribution to tribal studies has been of immense value, however, he has not concentrated much on land problem in tribal areas except in a recent work⁴² in which he has dealt to some extent on the land problem in the tribal area of Telangana. Though his studies may be considered as pioneering one in the field, he ignores certain aspects which are highly relevant for tribal development, such as, the large scale evictions of tribals, imposing restrictions

41. An Atlas of Tribal India: Raza and Ahmad, 1990.

42. Christoph Von-Furer Haimendorf, 'Tribes of India: The Struggle for Survival', 1988, p.26.

on forest tribals, declaring reserve forest, acquiring tribal land and forests dwelling places, etc.,

Thus, the studies undertaken after independence mainly concentrated on the 'policy' matters and were obsessed more about the arrangement of constitutional safeguards and the creation of welfare institutions. The latter studies have largely concentrated on the structures and functions of these institutions created by the government. Most of these studies are 'structural-functional' in methodology and reformistic in suggesting solution and alternative models. Studies that have been taken up to highlight exploitation in tribal areas are very limited in nature and they also vary in their methodology and content analysis. Land problem, though recognized by many as the basic problem of tribal economy, however, has not been covered appropriately. The need for an extensive work on the mode of land alienation in tribal areas cannot be over emphasised at this juncture. This is more specifically true in the case of tribals of Orissa. Hence this work is an effort in that direction.

1.4 OBJECTIVE OF THE STUDY

This study is an exploratory one, which seeks to find out the various forms of land alienation seen among the tribals of Orissa state. The basic objectives of the study can be categorized under three points:

1. To find out the forms of alienation and the problem faced in restoration of these lands, through specific case studies;
2. To find out the adequacy of laws framed to prevent such alienation and the awareness of these laws among the tribals; and
3. To assess the role of the legal and administrative machinery in preventing land alienation as well as restoring back the land already alienated.

1.5 AREA OF STUDY

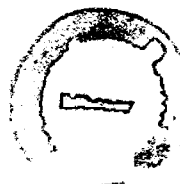
In order to substantiate the claim about the existence of different form of land alienation in the state of Orissa, specific intances have been used. Thus, a total number of 19 villages have been selected from all the 13 districts of the state to cite as examples.

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In addition, there has been land loss among tribals due to various development projects. One such major project in the State, namely the Upper Kolab Hydro Electric Project in the district of Koraput has been instrumental in the displacement of large number tribal families. The district of Koraput has, therefore, been included in this study.

1.6 DATA SOURCE

The data used in this study have been taken from



various government and non-government sources. As far as the governmental sources are concerned, most of the statistical figures and other information was gathered from the Report on the Universal Bench Mark Survey in the Tribal Sub Plan Areas of Orissa, conducted by the Tribal & Harijan Welfare Department in 1978. The Sample Survey of Tribal Development in 1988 has also been referred to. However, the basic data have been collected from the Data Bank of the Tribal and Harijan Research cum Training Institute at Bhubaneswar which provide data upto household level. The analyses presented in this study has been computed from those basic information.

B. 1.1 DEMOGRAPHIC AND SOCIO-ECONOMIC PROFILE OF THE TRIBES OF ORISSA

Size and Distribution of Population

Orissa is the second largest state of tribal inhabitation in the country. In the 1991 Census, about 7.03 million person in the state were enumerated as members of scheduled tribes. They shared about 10.4 per cent of the tribal population in the country and nearly 22.2 per cent of the state population.⁴² The magnitude of the tribal population in the state can be visualized from the fact that it is numerically equivalent to the combined population of Pradesh and Manipur enumerated in the last census.

Distribution of population: The tribals in Orissa live in all the districts of the state, the largest in number being in Koraput district where more than 1.6 million persons were enumerated in the last census as members of scheduled tribes. The next largest number reside in Mayurbhanj district (Table 1.1). The distribution shows that tribals in the state are mostly localised in two distinct pockets, namely, in the northern districts of Mayurbhanj, Sambalpur and Sundergarh; and in the south in Koraput district. In these four districts together, more than three-fifths of the total tribal population of the state reside. In the coastal districts of the state, that is, in Baleshwar, Cuttack, Ganjam and Puri, the tribals are thinly populated. Further in Koraput, Mayurbhanj and Sundergarh district, the tribals are in majority constituting more than 50 per cent of the population. They also share a large proportion of the population in Sambalpur, Kendujhar, Phulbani and Kalahandi districts. However, in Baleshwar, Cuttack, Ganjam and Puri districts, the tribals are sparsely populated with less than 10 per cent of the population.

42. Census of India: 1991. Final Population Totals, Series:1, Paper 1 of 1992.

Table 1.1: Scheduled Tribe Population, Orissa, 1991

District	Population	Percent distribution	Percent tribals
Orissa	7,032,214	100.0	22.2
Sambalpur	740,323	10.5	27.4
Sundargarh	798,481	11.4	50.7
Kendujhar	595,184	8.5	44.5
Mayurbhanj	1,090,626	15.5	57.9
Baleshwar	197,992	2.8	7.1
Cuttack	182,188	2.6	3.3
Dhemkanal	232,519	3.3	12.2
Phulbani	322,408	4.6	37.3
Balangir	316,797	4.5	18.6
Kalabandi	495,425	7.0	31.0
Koraput	1,636,079	23.3	54.3
Ganjam	296,845	4.2	9.4
Puri	127,347	1.8	3.5

Source: Census of India, 1991, Final Population Totals, Paper 1 of 1992, Series-1, India, pp.57-58.

In Orissa, according to the existing list, there are 62 tribes or part thereof scheduled throughout the state. Among them, the Gond, the Khond and the Santal are the major tribes. There are also a few tribes which are in small number. The Baiga, the Birhor and the Chenchu fall in this category.

Sex Composition: In India, the sex ratio (F/M) is adverse to the females and it is lower than the level at birth, that is less than 950 female births per 1000 male births. The imbalance in the sex composition in India has

been growing since the beginning of the century, with a few exceptions, and it has reached to 927 in 1991.

The census data show that the sex composition of the tribals is favorable to females. In fact, the sex composition of the population in the State is relatively better balanced than that at the national level and the females superseded the males in number upto the 1961 Census. Since then the ratio has been declining but it has remained favorable to females among the tribals thus proving that the females are not neglected and they are well protected by the social rules. From economic point of view, tribal women actively participate in the maintenance of the household by collecting firewood, fruits, tuber, edible herbs, etc. These examples though not exhaustive, bring out the fact that females in tribal society play vital roles in social and economic life of the community.

Distribution by Marital Status: The distribution of tribal population by marital status in 1981 was slightly less than 55 per cent of the males and slightly more than 47 per cent of the females were returned as "never married". The corresponding proportions in the total population were respectively 56 and 48 per cents. The figures suggest similarity in the distribution of the population by marital status and since the age distribution of the tribal and

total population appear to be similar. It may be noted that marriage among the tribals is a social contact and it can be dissolved by any of the parties by refusing to continue to live in wedlock. The tribal society though permits divorce but the proportion of "divorced and separated" persons enumerated in the census is very small suggesting stability in marriage. The distribution of the tribal population by marital status was almost the same between the 1971 and 1981 Census, whereas the proportion of "never married" was much lower in the 1961 Census.

Growth of Population

The population enumerated in the last four censuses bring out that the tribal population in the state is growing at a slower pace than the total population (Table 1.2). Further, between the sixties and the seventies, the growth rate of the tribal population registered an increase. It may be noted that an examination of the age distribution, discussed earlier, indicated the possibility of decline in the level of birth and death rate during 1961-1981 in the state and also in the tribal population. The trends in the growth rate suggest that the amount of decline in death rate and to a much less extent in case of the tribal. The continuation of the decline in death rate and marginal decline in birth rate has resulted in an increase in the population growth rate of tribals during the eighties.

The growth rate of the tribal population within the state shows a wide variation both in the level and also the changes therein. During 1961-71, the highest growth rate of the tribal population was recorded in Baleshwar while it was the highest in Cuttack during 1971-81 and in Baleshwar again during 1981-91. These two are sparsely populated districts of tribal concentration. Among the districts of tribal concentration, the growth in the last decade was less than 20 percent though it fluctuated heavily in the decades. The trend further shows that in districts other than Sambalpur, Dhenkanal and Balangir the growth rates of tribal population fluctuated widely.

A wide variation in population growth rates is also noticed among the different tribal communities, including the major tribals. Other than errors in enumeration, there is no other cause which can provide explanation for the differentials and the fluctuations in the observed growth rates. It may be noted that the volume of net internal migration in case of Orissa is very small and therefore the observed growth rate is due to natural increase.

Table 1.2: Growth of Tribal Population in Orissa, 1961-91

State/District	Growth rate (per cent)		
	1961-71	1971-81	1981-91
Total population	25.1	20.2	20.2
Tribal population	20.1	16.6	18.9
DISTRICT			
Sambalpur	17.2	20.5	19.3
Sundargarh	24.8	24.6	16.4
Kendujhar	28.1	11.3	19.1
Mayurbhanj	15.1	8.6	19.5
Baleshwar	34.6	19.3	28.4
Cuttack	27.5	30.7	25.9
Dhemkanal	16.4	16.2	19.8
Phulbani	17.1	11.4	15.4
Balangir	12.8	12.5	13.0
Kalahandi	21.6	23.0	18.3
Koraput	26.2	19.1	19.3
Ganjam	21.8	10.5	17.3
Puri	28.3	16.4	26.3
MAJOR TRIBE			
Gond	12.0	20.7	
Khond	6.2	13.7	
Kolha	50.1	5.4	N.A.
Munda	0.3	50.6	
Santal	10.2	17.2	
Saora	10.0	8.0	
Shabar	24.1	37.0	

Source: Census of India: 1961, 1971, 1981 and 1991, Final Population Totals.

India's population is experiencing demography change and these are not uniform within the country. A need to study the demographic behaviour of the population by region, ethnic group, etc., is therefore felt to have better

understanding of the situation. Such studies will help to establish the linkages between and social and economic development and the demographic parameters.

Socio Economic Situation

The tribal communities of Orissa show a great variety in their dress and adornment, in language and social organisation and in economic life. From economic point of view they are now at different levels of development. At one end there are food gatherers and hunters and at the other end there are acculturated and advanced communities. According to 1991 Census about 90 per cent of the tribal workers are cultivators and agriculture labourers, while the remaining 10 per cent are engaged in occupations like forestry, trade and business, service and mining and industrial work. Economically, the tribes of Orissa can be classified into such categories as (1) Hunter gatherers, (2) Pastoral , (3) Shifting cultivators, (4) Settled cultivators and (5) Industrial and mining workers.

The strength of the tribal groups falling in the category hunter-gather is about 10,000. They are exclusively dependent on forests for their livelihood and their fundamental economic base includes a division of labour with males hunting and females gathering edibles.

A large number of tribes who live in the hills and forests are dependent on shifting cultivation which is supplemented by forest collection and occasionally by wet cultivation. Both male and female work hard for their survival.

The major bulk of tribal population are plain cultivators. Forest collection and small trade are also undertaken by them to supplement their income from agriculture.

Thus the tribals are primarily dependent on land and forest. They cultivate lands in the plains and practise shifting cultivation in forest land which they mainly supplement by collection of a number of minor forest produce for their own use and for sale. But they have been subjected to various forms of exploitation during pre-independence period in particular, in the hands of moneylenders, traders other invaders from the plains at the time of purchase and sale of forest and agricultural produces. Ignorance of money economy and illiteracy on the part of tribal people helped the exploiters in grabbing tribal land in large scale.

The increase in population and large-scale alienation of land have brought tremendous pressure on land. Further these lands are poor in quality and the techniques of

cultivation followed by tribals are primitive and the yield from land is low.

Indiscriminate destruction of forest is a common phenomenon in the tribal areas. The wanton destruction went on unabated and further accelerated after independence with the establishment of major industrial, mining, irrigation and electricity projects and consequent infiltration of outsiders into the tribal pockets to settle down by clearing forests. In addition to this the pressure of population growth has also contributed large scale exploitation of forest resources causing environmental imbalances, particularly in the areas inhabited by tribals.

Alienation of land and shrinkage of forest coverage have adversely affected the tribal people who primarily depend on land and forest. However, Government have now taken measures to improve their condition since the Fifth Five Year Plan. A number of protective and promotional programmes are now being implemented in the tribal areas of the State. The tribal people in their turn are coming forward to participate in such development programmes. Educational facilities have helped them to improve their literacy status. Implementation of a number of protective legislations to safeguard them from various forms of exploitation and provision for economic assistance,

expansion of job opportunities are helping them to improve their economic condition. Some of them no more live in isolation as in the past but are found participating in all developmental activities sponsored by the Government.

CHAPTER : TWO
LAND ALIENATION IN ORISSA

CHAPTER - 2

LAND ALIENATION IN ORISSA

2. INTRODUCTION

Emergence and continuity of the process of land alienation among the tribals may be attributed to various historical, administrative, economic and cultural factors. Introduction of feudal system in ex-states and intermediary systems like Muthadari in land revenue in some parts in the absence of permanent settlement of lands by survey in tribal areas in particular and imposition of heavy land tax on the peasants during the pre-independence period had forced many small landowners to remain as their dependents or to live in hills and forests.

Exploitation of tribal through the process of indebtedness and land alienation in the land of non-tribals from other areas reached an alarming stage due to indifference shown by the earlier administrators.¹ As most of the tribal area were unsurveyed and no documentary title to their land was available, the land hungry non-tribals in the disguise of money lenders and traders succeeded in alienating tribal lands in their favour mostly through oral agreements. When this became a chronic problem in different

1. B.V.Rao, 'Land Alienation in Tribal Areas', Warangal, Kakatiya School of Public Administration, 1987, p.38.

areas, the administration started taking steps to check it through promulgation of various rules and regulations.²

Another manner in which the lands tribals lost their land was through the various developmental programmes executed in the tribal areas both before and after independence. Development of road communications, establishment of schools, markets and medical centres during British Administration and establishment of a number of irrigation and power projects, industrial projects, mining projects and or forest and wild life projects in the heart of tribal areas have resulted in displacement of tribal people and acquisition of their lands. But this doesn't in the least bit imply that all development activities should be stopped. Man, whether civilized or savage, is a child of nature - he is not the master of nature. He must conform his actions to certain natural laws if he is to maintain his dominance over his environment. When he tries to circumvent the laws of nature, he usually destroys the natural environment that sustains him. And when his environment deteriorates rapidly, his civilisation declines.³ Development by itself doesn't start minus the people. All

2. Ibid.

3. Tom Dale and Vernon Gill Carter in 'Topsoil and Civilisation' (University of Oklahoma Press, USA, 1955) quoted in E.F.Schumacher's Small Is Beautiful, 1990, p.84

activities of development ultimately aims at the welfare of the people. Thus, to satisfy a section of the people in the urban centres by ceaseless supply of electricity we might be submerging homesteads and land of thousands others. This in its true sense cannot be termed as development. All development activities that take place in tribal dominated areas should be done in such a way as not to disturb the social and economic life of the people.

Simplicity and truthfulness of tribal ethics on one hand and illiteracy, inaccessibility and ignorance of the tribal people regarding various measures taken by the government on the other helped the non-tribals to grab the land. However, tribal people need credit mostly for non-productive purpose like, meeting the expenses of social events and ritual practices and to some extent for productive purpose like purchase of seeds and drought animals. Since official agencies do not meet all their requirements, they get loan from private money lenders and once they fall in the clutches of these exploiters it becomes easier for them to grab their land.⁴ A locational list of the villages taken along with map to cite as examples for the purpose of explaining the various forms of land alienation is given in the next page (Table: 2.1).

4. N.Patnaik, 'A Study of Two Tribal Development Blocks in Orissa', 1986, p.24.

Table 2.1: Location of Samples Villages

Sl. No.	Name of the District	Block	Police Station	Gram Panchayat	Village
1.	Balasore	Nilgiri	Nilgiri	Sajanagarh	Banthiapada
2.	Bolangir	Patnagarh	Patnagarh	Kendumundi	Maghamara
3.	Cuttack	Sukinda	Sukinda	Baragadia	Gobarghati
4.	Dhenkanal	Athamalik	Athamalik	Lahasinga	Kendupati
5.	Ganjam Ganjam Ganjam	Gumma Mohana Gumma	Seranga Mohana Seranga	Seranga Chandragiri Seranga	Bhubani Baunsuri Ameisingi
6.	Keonjhar	Joda	Joda	Anseikala	Narayanpur
7.	Kalahandi Kalahandi	Thuamul- Rampur Khariar	Thuamul- Rampur Khariar	Thuamul- Rampur Mohana	Kathakura Godhuapadar
8.	Koraput Koraput	Semiliguda Kolnara	Semiliguda Rayagada	Kundili Kolnara	Kutugaon Madanpur
9.	Mayurbhanj	Jashipur	Jashipur	Gudugudia	Gudugudia
10.	Phulbani Phulbani	Balliguda Balliguda	Balliguda Balliguda	Badakhama Badakhama	Rebangia Srasananda
11.	Sambalpur	Laikera	Laikera	Sebuchipidihi	Routbahal
12.	Sundargarh Sundargarh	Bisra Lefripada	Bisra Refripada	Bisra Dumabahal	Dodhari Saleitikri
13.	Puri	Dasapalla	Dasapalla	Chadoyapalli	Sundarkumpa

MAP OF

ORISSA

SHOWING LOCATION
OF SAMPLE VILLAGES

MAP NO. 1.1



Source: Orissa Administrative Atlas, 1971.

0 10 20 30 40 50
kms

2.1 THE CONCEPT OF LAND ALIENATION

Alienation as a concept is used by many a social scientists in India, merely as a 'sociological phenomenon' and its varied dimensions are seldom probed thoroughly. Since land alienation is the crux of the tribal problem, the concept assumes utmost importance in the analyses of tribal situation in India.

The problem of land alienation in tribal areas is not a mere 'structuralist-legalist' one, but a much more deeply connected phenomenon with full of contradictions related to the existing socio-economic order. The separation of lands from tribal communities can be understood in a more scientific way with the assistance of the theoretical formulations of the concept of alienation. To substantiate, Satya Deva points out the alienation is inherent in exploitative relations of production and that its nature varies with that of exploitation. Hence, alienation's manifestation also differs among societies based on slavery, serfdom and capitalism.⁵ Thus the concept of alienation may be interpreted to understand a specific problem of tribals where land becomes the primordial source of exploitation and results in the creation of a society where exploitative production relations exist.

5. Satya Deva, Alienation and Administration in Developing Countries, Mainstream, Vol.XIX, No.40, June 6, 1981, p.19.

Alienation as a philosophical concept is vividly discussed by Hegel and his concept was highly non-materialistic and idealistic. Karl Marx criticises that Hegel's philosophy suffers from the double defect of being at one and the same time 'uncritical position' and equally 'uncritical idealism', as it denied the empirical world by acknowledging true reality only in abstraction and denied that idea has no other possible earthly meaning.

Marx, in his early writings, especially in his 'Economic & Philosophical Manuscripts (EPM)', discusses this concept as 'estranged labours'. Alienation, in Marx's conception of man in the capitalist society, is the process which facilitates the exploitation of many by a few.⁶ Further, he says that 'alienation is fundamentally a particular relation of property, involving involuntary surrender to antagonistic 'other''⁷. It is a process of relinquishment by which people become strangers or enemies to one another.⁸ Marx considers alienation and estrangement as generally synonymous. He has clearly analyzed the theoretical issues involved in the concept of alienation

6. T.R. Sharma, Karl Marx: From Alienation, to Exploitation, 'Indian Journal of Political Science', Vol.40, No.3, September 1979, p.353.

7. Ibid.

8. T.R. Sharma, Op.cit., p.354.

and its relationship with human development and found it as the result of the dawn of private property when contradictions in the division of labour come to stay with the emergence of the classes of the wage workers and wage givers. Though the exact phase of the alienation of humanity was not straightly mentioned by Marx he visualized it as the consequence of a particular historical phase of a mode of production which begot the alienated relations in the development of human society. Thus, alienation must be viewed and understood from different perspectives such as in the relation of the worker to the product of his labour, in relation to the activity of production itself, in terms of its impact not he worker and in the context of individuals and social life of man in his relation to nature, to himself, to the object and to the other men.⁹

Tribals in their pre-capitalistic socio-economic formations had not made land as a commodity as it was freely available to them for cultivation. It is they who had cleared off the forests by their labour for centuries and possessed the land for a thousand-odd of years. At this stage of evolution of tribal societies there was a dependence on land for making livelihood but despite of it, it never used to be under the strict sense of individual

9. Karl Marx, Economic and Philosophical Manuscript, Progress Publisher, Moscow, pp.71-75, 1960.

private ownership of property. But when the outside forces started encroaching on their lands & environment, gradually their activity started confirming itself to a limited area, particularly for the purpose of cultivation. There processes had attributed juridical nature to the land systems and made the tribals to confirm their freedom.

Thus the application of concept of alienation to the problem of land alienation in tribal areas is to be understood in the light of the issues like the dawn of private property relations, and commoditisation of the means of production (land, labour & capital) and the very process of penetration of private & state capital in these areas.

2.2 FORMS AND REASONS FOR ALIENATION

Among the different forms of alienation only 4 types are noticed in the cases taken. These are by sale, by mortgage, by leasing out and by forcible encroachment. The Table No. 2.2 reveals that of the total 125.64 acres of land 80.95 acres(64.43%) have been transferred by sale involving 16 households. Another 30.95 acres (24.63%) of land of 15 household have been transferred by way of mortgage. Of the remaining land 10.24 acres (8.15%) belonging to 13 tribals have been lost by way of encroachment, 3 acres belonging to one tribal household have been given on lease and 0.50 acre belonging to another tribal household have been given for public purposes.

Table No. 2.2: Forms of Land Alienation

Sl. Form of alienation No.	Dry land		Wet land		Jhum land		Homestead land		Total house	Total land
	No.of house-hold	Amount of land (acre)	No.of house-hold	Amount land (acre)	No.of house hold	Amount of land (acre)	No.of house hold	Amount of land (acre)		
1. Sale	11	60.65 (76.52)	5	20.30 (44.39)	-	-	-	-	16	80.95 (60.43)
2. Mortgage	9	15.90 (20.06)	6	15.05 (33.27)	-	-	-	-	15	30.95 (24.63)
3. Lease	-	-	1	3.00 (6.26)	-	-	-	-	1	3.00 (5.63)
4. Encroachment	5	2.70 (3.42)	7	7.30 (16.13)	-	-	1	0.16	13	10.24 (8.15)
5. Public Purposes	-	-	-	-	-	-	1	0.50	1	0.50 (1.16)
6. Other	-	-	-	-	-	-	-	-	-	-
Total	25	79.25	19	45.73	-	-	2	0.66	46	125.64 (100.00)

Source: Tribal Research Institute, Orissa.

Table No. 2.3: Form of Land Alienation: Village-Wise List

Sl. No.	Name of the village	Type of Land Alienation (in acre)			
		By Sale	Encroachment by Non-Tribals	By any other false methods	Mortgage Lease
1	2	3	4	5	6
1.	Banthiapada	1.00	3.50	0.50	1.00
2.	Maghamara	36.60	0.50	-	15.60
3.	Gobarghati	5.00	-	-	1.00
4.	Kendupati	-	-	-	-
5.	Bhubani	-	-	-	-
6.	Baunsuri	-	-	-	-
7.	Ameisingi	4.85	-	-	1.45
8.	Narayanpur	-	-	-	1.25
9.	Kathakura	14.30	-	-	3.00
10.	Godhuapadar	17.00	1.00	-	7.50
11.	Madanpur	-	-	-	-
12.	Kutugaon	-	-	-	-
13.	Gudugudia	-	0.20	-	-
14.	Rebangia	1.80	2.00	-	3.15
15.	Srasananda	-	-	-	-
16.	Routbahal	-	-	-	-
17.	Dhodhari	0.40	0.45	-	-
18.	Salitikra	-	2.59	-	-
19.	Sundarkumpa	-	-	-	-
Total		80.95	10.24	0.50	33.95

Source: Tribal Research Institute, Orissa.

A further analysis of the table shows that out of the total 79.25 acres of dry land, 60.65 acres (75.52%) have been disposed of by sale, 15.90 acres (20.06%) by mortgage and 2.70 acres (3.42%) by encroachment. Similarly, out of the total amount of 45.73 acres of wet land 20.30 acres (40.39%) have been transferred by sale, 15.05 acres (32.22%) by mortgage, 7.30 acres (16.30%) by encroachment and 3 acres (6.26%) by lease, out of the 0.66 acre of household land, 0.15 acre have been encroached and the rest 0.50 acre acquired for public purposes. Table 2.3 gives a village-wise list of different forms of land alienation.

Generally, the tribal people alienate land under various circumstances. The reasons which were found out in the cases are for construction of house, consumption, treatment of diseases, to meet the expenses of various social functions and under compulsions. Table No. 2.4 given the purposes of alienation and the amount of money received the land alienated households.

Out of the total 46 households as many as 15 households of 32.60 per cent were the victims of force and they have to give up their land without getting any thing towards the value of land. Of these 15 households 4 households are from Banthipada, 2 each from Maghumara, Rebangia, Salitikra and Ameising and one each from Godhuapadar, Gudughudia and

Table No. 2.4: Reasons for Alienation

Sl. No.	Village	Total H.H.	Total land alienated H.H.	Construction on land		Daily consumption	
				No. of H.H.	Amount in Rs.	No. of H.H.	Amount in Rs.
1	2	3	4	5	6	7	8
1.	Banthiapada	48	7	2	700	-	-
2.	Maghamari	76	9	1	3000	4	7000
3.	Gobarghati	158	2	-	-	-	-
4.	Narayanpur	61	1	-	-	-	-
5.	Kathakura	82	3	2	7000	-	-
6.	Godhuapadar	45	7	-	-	4	5300
7.	Godugudia	52	1	-	-	-	-
8.	Rebangia	54	8	2	370	3	440
9.	Dodhari	57	2	-	-	-	-
10.	Salitikra	72	2	-	-	-	-
11.	Ameisingh	21	4	1	500	-	-
Total		726	46	8	11570	11	12740

Source: Data Bank, Tribal Research Institute, Orissa.

Dhodari. Among the other reasons, 8 household or 17.39 per cent have alienated land for construction of house, 11 households or 23.31 per cent for consumption, 9 households or 19.56 per cent for meeting the expenses of various social functions like marriage etc. and 4 household or 8.50 percent for treatment of disease.

The amount of money received by the people shows that for 115.40 acres of land they have received only Rs. 49.790/-. Thus the value of land per acre comes to Rs.431.45. This show that the people have give up their land in a throw away price.

Different forms of land alienation like sale, mortgage, lease encroachment, etc. have been marked in the tribal area studied. Tribals have lost their lands to various sources such as non-tribal moneylenders, government agencies and even to other tribals. Table 2.5 gives a list of the different forms of land alienation and their principal sources.

Table 2.5: Land Alienation to Various Sources

Sl. No.	Form of Alienation	To Whom			
		Tribal	Non-Tribal	Government	Others
1	2	3	4	5	6
1.	Sale	10.15	68.00	-	2.80
2.	Mortgage	6.60	19.05	-	5.30
3.	Lease	-	3.00	-	-
4.	Encroachment	-	-	-	2.70
5.	Public Purposes	-	-	-	0.50
6.	Voluntary Organisation	-	-	-	-
7.	Others	-	-	-	-
8.	Total	16.75	94.39	-	14.50

2.3 CASES OF LAND ALIENATION IN ORISSA

The cases taken from the state, reveals that in 11 out of 19 villages, 46 households have transferred land to non-tribal. The villages where such cases were reported belong to 10 different districts of the State namely Balasore, Bolangir, Cuttack. Keonjhar, Kalahandi, Mayurbhanj. Phulbani, Sambalpur, Sundargarh and Ganjam. In other three remaining districts of Koraput, Dhenkanal and Puri no cases of land alienation was reported among the surveyed households. Table No. 2.6 gives a list of the amount of different types of land possessed by the tribals in the select villages.

The number of households who have transferred land constitute 5.25 per cent of the total number of households. The total amount of land transferred is 125.64 acres which comprise 79.25 acres of dry land 45.73 acres of wet land and 0.66 acres of homestead land.

Table No. 2.6: Scheduled Tribe Households Having Land

Sl. No.	Name of the village	No. of S.T. households having land	Amount of land in Acres						Total land
			Dry land	Wetland	Jhumland	Homestead land	Garden land	Fallow land	
1	2	3	4	5	6	7	8	9	10
1.	Banthiapada	47	43.5	54	-	15.8			113.3
2.	Maghemara	64	153.5	75.07	-	31.13	-	14	273.3
3.	Gobarghati	147	251	184.5	-	79.5	-	13.6	528.6
4.	Kendupati	35	78	-	-	11.74	-	13	102.7
5.	Bhubani	63	77	57	-	32.5	-	8	174.5
6.	Baunsuri	37	41.92	48.96	-	1.52	2.5	11.5	106.4
7.	Narayanpur	57	196.38	-	-	18.17	-	-	214.5
8.	Kathakura	81	225.40	126.80	-	15.79	-	24.84	392.8
9.	Madanpur	59	186.50	14.50	-	5	-	4.50	210.5
10.	Godadhuapadar	45	49.50	45.56	-	9.75	13	7.5	125.3
11.	Kutugaon	105	705.46	76.31	-	87.21	-	1.05	870.30
12.	Gudugudia	38	16.35	4.60	-	6.55	8.37	4.85	40.7
13.	Rebangia	59	49.95	2.94	-	3.94	3.70	2.9	63.4
14.	Srasanda	46	42.05	28.25	-	11.01	12.11	18.34	111.7
15.	Routbahal	54	219.79	29.5	-	17.05	6.45	8.25	281.0
16.	Dhodhari	57	229.11	43.76	-	9.14	14	8	304.0
17.	Salitikra	72	30.14	39.99	-	9.27	42	1.3	122.7
18.	Sundarkumpa	33	56	68.05	-	11.12	-	-	135.1
19.	Ameisingh	21	23.6	19.1	17.80	2.5	2.96	7	72.9
							1.75	-	64.75
Total			2720.22	918.83	17.80	376.6	106.84	148.63	4290.92
			(63.39)	(21.41)	(0.41)	(8.83)	(2.49)	(3.47)	(100.00)

Source: Tribal Research Institute, Orissa.

The following list (Table No. 2.7) contains the amount of land alienated under different categories of land.

Table No.2.7 Amount of Land Alienated Under Different Categories of Land

Sl. No.	Name of the village	Total tribal house holds	No. of land alie nated H.H.	Amount of land in acres			Total
				Dry land	Wet land	Homestead land	
1	2	3	4	5	6	7	8
1.	Banthiapada	48	7	0.50	5.00	0.50	6.00
2.	Maghamara	76	9	37.00	15.54	0.16	52.70
3.	Gobarghati	168	2	-	6.00	-	6.00
4.	Narayanpur	61	1	1.25	-	-	1.25
5.	Kathakura	82	3	17	0.30	-	17.30
6.	Gudugudia	52	1	0.20	-	-	0.20
7.	Godhua- padar	45	7	14.5	11	-	25.5
8.	Rebangia	64	8	5.90	1.05	-	6.95
9.	Dhodhari	57	2	0.40	0.45	-	0.85
10.	Salitikra	72	2	2.5	0.09	-	2.59
11.	Ameisingh	21	4	-	6.30	-	6.30

Source: Tribal Research Institute, Orissa.

Among all the villages Mayhamara of Bolangir district comes first for having both maximum number of affected tribal household and maximum amount of land Here 9 cases involving 52.70 acres of land have been reported. Next to this comes Rebangia of Phulbani district in terms of having maximum number of affected households and village Godhuapadar of Kalahandi district in terms of having maximum amount of land alienated. In Rebangia 8 households have this problem and the amount of land transferred by them is 6,45 acres. Similarly in Godhupadar 7 tribal families have lost 25.50 acres of land. The lowest place goes to village Gudugudia of Mayurbhanj district where only one household has transferred 0.20 acre off land to a non-tribal.

Of the total 46 households who suffered on account of the land alienation 16 households have transferred land in between 1960 and 1970, 15 households, each in between 1971 and 1980, 1981 and 1990 respectively. The villagewise analysis given in Table No. 8 shows that of the 16 cases which relate to the period (1960-1970), 4 cases are from Maghamara, 3 cases each from Banthipada and Rebangia, 2 cases from Godhupadar and one case from Dhodhari, Similarly, 4 household each of vilage Banthipada and Maghamara, 3 houshold of Rabangia and one household each of Salitikra and Amerising relate to the period of (1971-1980) of the rest 15 cases which were reported during (1981-1990) 3 each are from

Kathakura and Godhupadar, 2 each from Gobarghati and Rebangia and one each from Maghamara, Narayanpur, Gudugudia, Dhodhari and Saleitikra. Table-2.8 gives the extent of land alienation in different period

Table No. 2.8: Extent of Land Alienation in Different Periods

Sl. Village NO.		Total no. of H.H.	no. of land alie-nated house holds	No. of households alienated land within		
				1960-70	1971-80	1981-90
1	2	3	4	5	6	7
1.	Banthiapada	48	7	3	4	-
2.	Maghamara	76	9	4	4	1
3.	Gobarghati	158	2	-	-	2
4.	Narayanpur	61	1	-	-	1
5.	Kathakura	82	3	-	-	3
6.	Godadhuapadar	45	7	2	2	3
7.	Gudugudia	52	1	-	-	1
8.	Rebangia	64	8	3	3	2
9.	Dodhari	57	2	1	-	1
10.	Salitikra	72	2	-	1	1
11.	Ameisingh	21	4	3	1	-
Total		736	46	16	15	15

Source: Data Bank, Tribal Research Institute, Orissa.

It is most unfortunate that even though various legislations prohibiting transfer of tribal land to non-tribals have come into force since many years, yet most of the tribal people for whom these laws will be of great help do not have any idea about this. As evident from the study only 8 out of total 46 households have some idea about the existing laws. This large scale ignorance is mainly due to their educational backwardness and limited world-view.

Table No. 2.9: Awareness about Legislation

No. of Household allienated	Awareness about Legislation		If yes give the cause
	Yes	No	
1	2	3	4
46	8 (17.39)	38 (82.61)	No reply

Source: Data Bank, Tribal Research Institute, Orissa.

Only 8 household belonging to village Maghamara, Gobarghati, Salitikra and Ameising had approached their respective nearest local Government officials on their own accord for restoration of land (See Table 2.9). Of these 8 households, 3 household , one each of Rebangia, Salitikra and Ameising could able to file cases in the country. At present the situation is that only one case relating to

Rebangia has been finalised and the land has been restored to the affected person. The other two cases are still pending in the court (See Table 2.10).

Table No. 2.10: Restoration of Land Initiated

No. of Households alienated	Yes	To whom	No.
1	2	3	4
46	8 (17.39)	i) Tahasildar - 3 ii) Revenue Inspector - 2 iii) Panchayat - 1 iv) No reply - 2	38 (82.61)

Source: Data Bank, Tribal Research Institute, Orissa.

Exhaustive and conclusive data to reveal the extent of total land transferred from tribal to non-tribal are not available. Even if they are available, such figures will differ from period to period. However, data available from different sources indicated below show that incidence of transfer of land continue to be high inspite of promulgation of protective legislation after independence.

Sample Bench-Mark Survey conducted by the tribal and Harijan Research-cum-Training Institute, Bhubaneswar, during the period 1973 to 1975 in 26 community Development Blocks

coming within the Tribal sub plan area has revealed that 5.75% of the land owning tribal household have alienated land. Universal Bench Mark Survey conducted by the Tribal and Harijan Research-cum-training Institute, Bhubaneswar in 1978 throughout the Tribal sub plan area of the State has revealed that 1.96% of the total tribal house-hold have transferred land to non-tribals and 2.10% to tribals.

For strict enforcement of special legislation and to ensure a steady progress in the disposal of cases of land alienation, the State Government , have issued instruction for review of cases at different levels and for submission of money return indicating the institution and disposal of case, under Regulation II of 1958 and under Section 22 and 23 of Orissa Land Regulation act, 1960.

Cases of land loss among tribals also occur due to various development projects. Orissa state is replete with such cases of land alienation. The Upper Kolab Hydro Electric Project in the district of Koraput is one such developmental activity which has displaced a large number of tribals from their traditional homesteads. The following chapter deals exhaustively with the Project and its after effects on the tribals.

CHAPTER : THREE
LAND ALIENATION AND DEVELOPMENT

CHAPTER - 3

LAND ALIENATION AND DEVELOPMENT

3.1 INTRODUCTION

A major source, both of delinkage of the forest dwellers from their traditional culture and of land alienation, is displacement projects such as industries, irrigation dams and mining operations. In some of these cases very little attention has been paid to the rehabilitation of displaced persons. Till 1981, coal mining companies could take over vast tracts of land with very few formalities, under the Coal Bearing Areas Act.¹ In 1981, the Government of Orissa renegotiated an agreement with coal companies, according to which land is acquired by the Revenue Department at prevailing market rates under the Land Acquisition Act. Every displaced family is ensured one permanent job in the mines.

However, displacement is not merely due to mining operation. Also irrigation dams, industrial plants, etc. cause it. One of the major irrigation projects which has affected the tribals in a big way is the UpperKolab Hydro-electric cum Irrigation Project at Koraput in Orissa (See Map No.2).

1. Walter Fernandes et.al., 'Forest, Environment and Tribal Economy: Deforestation, Impoverishment and Marginalisation in Orissa, New Delhi, 1988, p.96.

MAP OF

ORISSA

SHOWING LOCATION
OF UPPER KOLAB
PROJECT

MAP NO. 3.1

WEST BENGAL

BAY OF BENGAL

ANDHRA PRADESH

Indrayati

Kolab

A
P
U
T

Submerged
Area

Irrigated
Area

Resettlement
Camps

0 10 20 30 40 50
kms

Source : Irrigation in Orissa, 1991

3.2 LAND ALIENATION BY DEVELOPMENT PROJECTS

Upper Kolab Project: The main dam across river Kolab is situated at a distance of 16 Kms. from Jeypore and Koraput towns, located at the foothills adjoining Jeypore town. The work of the project started in 1977 and is substantially completed. Two out of four units have been commissioned.

The Project has submerged a total area of 30,506.63 acres of land out of which 24211.00 acres are private land which include 23192.00 acres of agricultural land. It also involves 6155.6 acres of Revenue land and 189.95 acres of forest land. The total revenue village affected is 147 including 46 bastis and 3 hamlets.²

Of the 3004 affected families 818 families (27.23%) were rendered landless, 1507 families (50.17%) were left with more than 2 acres of land, 371 families (12.35 %) were left with land between 1to 2 acres of land, and 281 families (9.35%) were left with land upto only one acre. The rest 7 families (0.23%) could not get any compensation due to the death of the head of the households and the names of legal heirs are not yet received from the claimants.

In pursuance of the rehabilitation policy adopted by the government each displaced family including landing will

2. Report of Department of Revenue on Upper Kolab Oustees, Government of Orissa, 1988.

be allotted half an acre of homestead land and 6 acres of reclaimed non-irrigable land or 3 acres of reclaimed irrigable land. The cost of the reclamation will be borne by the Govt. subject of maximum of Rs. 600/- per acre. The above land will be allotted free of salami but 50% of the reclamation cost would be recovered from the allottee subject to maximum of Rs.300/-per acres. However the landless persons are exempted from such payment. Free transportation of salvaged house building materials from the submersible village to the place of resettlement at the time of displacement. Supply of house building forest materials at concessional rates. Essential public amenities like roads, wells, tanks, schools etc. at the approved ceiling in resettlement colonies. In addition to the above, employment priorities in the project work is also given to the displaced person whenever feasible.

The displaced families who are not willing to be settled in resettlement colonies and want to make their own arrangements, Govt. have made provision for cash payment in lieu of land. According to this each such displaced family will get a total sum of Rs.14,040/-. So far a sum of Rs. 3,77,60,703/- in shape of cash has been paid to 2616 families who opted for cash payment in lieu of land. Including this amount so far a sum of Rs. 5,04,11,291/-has been spent towards rehabilitation of displaced persons.

The first phase of compensation was paid in June, 1984 and the second phase in June, 1985. But the third phase of compensation was paid is the last i.e. in June, 1987. The total amount of payment in all the three phases is Rs.3,77,703/- only.

3.2 REHABILITATION POLICY OF THE STATE GOVERNMENT

Until the execution of Rengali Multipurpose Project, the State did not have any unified resettlement and rehabilitation policy for the oustees of irrigation projects. In case of Hirakud, the policy followed was, displaced persons were paid full compensation for lands and properties acquired from them. They were free to resettle in government sponsored colonies. In the latter case, reclaimed lands without limit were provided to them at a subsided rate of Rs.231/-per acre. Cost of reclamation was Rs. 500/-per acre. In the colonies amenities such as schools, roads community houses, wells, tanks etc. were provided entirely at government cost.³

Policy adopted for Rengali is improvement on the policy adopted for Hirakud. The two main improvements are (a) lands for resettlement in government sponsored colonies are provided free of salami. Displaced families who were land

3. Rehabilitation Policy of the Government of Orissa, Department of Revenue, 1990, p.63.

less also get this benefit (b) displaced persons who desire to make their own resettlement and rehabilitation arrangements in lieu of land allotted by Government, are also allow to do so and are given rehabilitation assistance in form of cash policy adopted in Rengali has under gone several amendments. The salient features of the state Rehabilitation policy are discussed in following paragraphs:⁴

- 1) A person is considered displaced, who on account of acquisition of land for the purpose of major and medium irrigation project has been displaced from such land including any landless and homeless person who is dependent for his livelihood, by manual labour, on agricultural lands immediately before the area comprising such lands is taken up for acquisition by the project and who is being deprived of such livelihood on account of acquisition of the lands.

The following principle is followed in determining the eligibility of a displaced family in regard to allotment of homestead land and agriculture land.

a) **Homestead Land**

In case the person belongs to a fully submerged village, he or she is entitled to get homestead land. Any

4. Ibid.

body belonging to partilly submerged village is not entitled to this benefit if there is no necessity to shift the house site.

b) Agricultural land

- i) A displaced family belonging to fully submerged village who loses land and/or houses is eligible provided he or she does not have 3 acres or more of such land in any adjoining village. Landless and homeless are also eligible to get this benefit.
- ii) A displaced family belonging to partially submerged village who retains the houses but loses agricultural land and thereby sustains a reduction in holding to less than 3 acres in the same or adjoining village will get the benefit.
- iii) A displaced family belonging to partially submerged village who losses houses and land and thereby suffers a reduction in holding to less than 3 acres in the same or adjoining village will get the benefit.
- iv) A displaced family belonging to partially submerged village who initially having holdings of less than 3 acres in the same village or adjoining village but losing houses will be entitled to get the benefit irrespective of the fact whether he losses his agricultural land or not.

- v) A displaced family belonging to partially submerged village who retains house but loses land which was under his/her encroachment in the same or adjoining village and thereby becomes landless is entitled to get this benefit.
 - vi) Landless and homeless families of partially submerged villages are also eligible to get the benefit.
- 2) Family in relation to a displaced person means such persons, and his or her spouse, minor sons, unmarried daughters, minor brothers or sisters, father and mother and other members residing with him and dependent on him for their livelihood. A son who is more than 18 years of age will be treated as a separate family irrespective of his martial status for the purpose of rehabilitation benefits only. Physically handicapped and mentally retarded persons, irrespective of their age will be considered as separate families.
 - 3) The date of publications of notification under section 4(1) of the Land Acquisition Act, 1894 is the reference date for the purpose of family enumeration. The enumeration list will contain the name, age etc. of the minors and the list families to be entitled for rehabilitation benefits will be updated as on 1st January of the year in which the actual displacement takes place.

- 4) Land for land has been the objective of resettlement. Over and above the payment of compensation money for the land and houses acquired for the projects, reclaimed land as under is allotted to each outstee family free of cost.
- a) 20 decimals of homestead land
 - b) Each displaced family, including landless family, will get either 2.5 acres of unirrigated land or 1.25 acres of irrigated land for agriculture purposes.

As far as practicable land should be allotted in the purposed ayacut of the project or in the ayacut of other projects. The status of land at the time of allotment, i.e. whether irrigated or unirrigated, will be taken into account and the future scope of irrigation facilities will be ignored. But land if any allotted in the command area of the project will be classified as irrigated land.

Displaced families in submerged villages losing their land or houses as well as landless families are eligible for this.

- 5) Displaced families are allowed free transport by the project for shifting as well as for carrying their houses, building materials which they salvage from old sites to the place of resettlement. This is limited to one truck only.

- 6) Each displaced family will be provided with a pucca house (300 to 400 sq ft plinth area) with two rooms, a kitchen and a bath room with ferro cement or absestos roof in the rehabilitation colony set up by project authorities. Those families preferring to stay outside the colony will be paid 50% of the approved cost of the built up house in the colony. The amount will be paid in three installments. The first installment will be released immediately after sanction & the two subsequent installments will be deposited in the S.B. account and released on verification of proper utilization of the previous installments.
- 7) Common civic amenities are provided in the settlement colonies at the following rate at government cost.
- a) **Wells**
- i) Upto 44 families "- one well
- ii) For 45 to 70 families " two wells.
- iii) For 75 to 100 families " three wells.

In case of individual resettlement in existing revenue village known as clusters, where the number of displaced families, at least 10 resettle one drinking water well is also provided.

- b) One tank for each colony irrespective of number of families.

- c) One two roomed school building for colonies with less than 50 families and well within its campus.
- d) One Club Houses irrespective of the number of displaced families and a well near it.
- e) Internal roads in settlement colonies.
- f) In case of individual resettlement in existing revenue villages (cluster) if the number of displaced families resettled there exceed 30, a tank and a two roomed school building is provided on order of Revenue Divisional Commr.

Besides facilities are provided for reconstruction of deities. For amenities like education for higher secondary and higher education, Public Health Centre, Veterinary Dispensary, Panchayatghar etc., respective Administrative Departments of Government supplement the provision made in the rehabilitation estimate. Electrification of the colonies and facilities for minor irrigation should also be provided as far as possible.

Each displaced family residing in the project sponsored colony will also get a maintenance allowance of Rs. 500/-per month for one year. The amount will be released in the Ist week of each month. Where land is not available for settlement of displaced families or where the displaced families opt to make their own resettlement arrangements,

rehabilitation grant in lieu of land at the flat rate of Rs. 8000/- per acre of unirrigated land or Rs. 16,000/- per acre of irrigated and homestead land (inclusive of cost of reclamation) is given.

Over and above the aforesaid facilities, Government also provide employment opportunities. 50% of the vacancies in unskilled posts in the hydro project will be kept reserved for the people of submersible area. In an ideal set up, with a view to encouraging the oustees to take to useful avocations like poultry, pisciculture, horticulture, animal husbandry etc., Government will assist in organising and financing such activities. Training should be imparted at project cost to equip the eligible oustees to be considered for employment in the project. Of course such training imparted should not be presumed to be a commitment for ultimate employment in any organization.

The execution of certain components of the rehabilitation plan may be entrusted to reputed voluntary organisations. In every Major Water Resources Project one Special Land Acquisition & Rehabilitation Officer is posted incharge of land acquisition and rehabilitation work of the project. he is assisted by several Zone Officers and other subordinate staffs. In case of Rengali Project, the staffing pattern is however little different. Over and

above the Spl. land Acquisition Officer there is one Resettlement & Rehabilitation Officer. The work of these two officers is coordinated by another officer designated as Deputy commissioner, Rehabilitation. In case of Upper Indravati Project and also Subernarekha Project there are two officers, each one for land acquisition and another for rehabilitation.

For every major project and there is an Advisory Committee with the concerned Revenue Divisional Commissioner as its Chairman. Concerned Collector, local M.L.As and M.Ps are the members of the said Rehabilitation Advisory Committee. The major projects in respect of which such Rehabilitation Advisory Committee have been framed are Rengali, Upper Kolab, Upper Indravati and Subernarekha. For every medium Irrigation Project the concerned Collector is the Chairman of the Rehabilitation Advisory Committee.

These Rehabilitation Advisory Committees study the problems of the displaced persons and advise Government from time to time regarding rehabilitation problem of the project. Keeping the magnitude of rehabilitation problems in view, Committees at the State level are also constituted. One such committee under the Chairmanship of Honble chief Minister has been constituted for Rengali Multipurpose Project.

Resettlement and Rehabilitation of oustees should be the first item in a project instead of last item as generally viewed now. A detailed survey of the persons to be ousted (their number, community, profession etc.,) should be undertaken village wise well in advance of the project construction and rehabilitation plan chalked out so that physical displacement commences at least one year before the impounding of the reservoir. For that matter the colony to be set up, must be kept ready with all civics amenities therein well before the evacuation starts. Oustees or their representatives should be taken to confidence while selecting sites for colonies. They should be issued with identity cards in token of displacement basing on which developments benefits should be given. Priority should be given to bring them under I.R.D.P., N.R.E.P., and other rural development schemes. The plan should indicate the following: 1) Number and name of villages to be affected within F.R.L. of the proposed reservoir.

a) Fully affected villages

- i) No. of families (SC/ST/ General to be shown separately.
- ii) Agricultural land to be affected.
- iii) Homestead land to be affected.
- iv) Other properties.

b) partially affected villages (here indicate also as in fully affected villages).

- 2) Village wise number of persons having different occupations.
- 3) Village and land area free from encumbrances identified for setting up colonies. Give map.
- 4) How many families will move to the aforesaid colonies and how many will make their own rehabilitation and resettlement arrangements.
- 5) Number of persons who will opt for homestead, land only/agricultural land only.
- 6) Number of persons who can be motivated for taking up different economically viable trades and the arrangements made to avail of financial assistance et., Give outlines.
- 7) Number of persons who can be trained in different trades at project cost.
- 8) Phases of displacement. Give idea about the programme chalked out for this work.
- 9) Financial outlay proposed for meeting the cost of land acquisition and resettlement and rehabilitation (Here indicate itemwise proposed expenditure as envisaged in the rehabilitation policy.

It should be noted that no forest land can be earmarked for resettlement and rehabilitation purpose.

3.3 RESETTLEMENT OF UPPER KOLAB DISPLACED PEOPLE

With coming up of the Upper Kolab Hydro Electric Project, in 1976 in the district of Koraput, in Orissa, 48 villages came under submergence due to execution of the river Dam in the upper region of river Kolab.

Consequent upon the aforesaid submergence, Resettlement and Rehabilitation of the affected families, who had to be displaced under this exigency, was imperative on the part of Government.

In order to assess the economic condition of the displaced families, in their present resettlement areas, two sample Resettlement areas was taken as examples.⁵ (See Table 3.1).

- 1) 'Gopalput Resettlement Area' containing the displaced families of the Submerged Revenue village Gopalput;
- 2) And Camp No. IV at Sasahandi, near Kotpad (14 kms. away containing the displaced families of the submerged Revenue village, Parajapondi.

Village Gopalput submerged in the second phase of construction of the Dam during June, 1985 as the location of the village was at 835 to 850 F.R.L. (Full Reservoir Level). The village Parajapondi was submerged in the third phase of

5. Data Bank, Tribal Research Institute, Orissa, 1991.

the construction work of the Dam during June, 1987 as the location of the village was at 850 to 858 F.R.L. A part of 'Gopalput-village-area', which was above the 858 F.R.L., was left out of any submergence whatsoever. Gopalput Resettlement Area, as it is known to day continues to carry its original submerged-village name Gopalput without any change. This resettlement area emerged out of the self-propelled will of the villagers concerned. This land-patch, occupied on resettlement, is a part of the submerged village Gopalpur beyond the submergence line of the village. This resettlement area lies within the limits of Koraput district Head Quarters town. By coincidence it is also at the same distance from Sunabeda Aeronautical town. Being connected with the 18kms. long Koraput-Sunabeda road, which is a part of the National Highway No. 43, it is obviously conveniently situated in the mid-way of Koraput and Sunabeda townships.

The resettlement of this area are apparently in a superior living advantage compared with their counterparts in Camp No. IV resettlement area. They have the scope to offer labour on wage, in HAL, NALCO, and Upper Kolab Project establishments, including sundry engagements on road-works etc. which are plentifully available in the area.

As regards the other Resettlement namely Camp No.IV, it is apart of the 'Resettlement Area' of other displaced families under this Dam. It is situated about 4 kms. away from Sashandi Revenue village, maintaining a distance of 14 kms. from Kotpad, along the National High way No.43.

Of the two Resettlement areas mentioned above, while the first one, namely Gopalput was 'people product', the second one namely, Camp No. IV was 'Government sponsored.

The village Gopalput comes under Koraput police Station where as the village Sasahandi (Camp No. IV) comes under Kotpad Police Station.

The position of distribution of the affected families, during 'Pre-merger' and 'Post-Rehabilitation' periods, is indicated in the table given on next page.

Gopalput Affected Families

During the process of actual shifting for rehabilitation purpose, out of 141 families of this village, 130 families took up resettlement in "Gopalput resettlement area" described earlier, whereas 11 families rehabilitated themselves in Camp No. VII. These 41 families belong to S.C. group, and the 130 families, said above, were composed of 108 S.T., 8 S.C., and 14 O.C.

Table No. 3.1: Community-wise Break-up of Displaced Families in their Resettlement Area

Sl. No.	Submerged village	Affected families	Camp No. IV	Camp No. VII	Went on own rehabilitation	Later desertion	Present families position
1	2	3	4	5	6	7	8
1.	Gopalput	141 108 S.T. 8 S.C. 25 O.C.	X	11 All S.C.	130 108 S.T. 8 S.C. 14 O.C.	62 58 S.T. X S.C. 4 O.C.	68 65 S.T. X S.C. 4 O.C.
2.	Parajapondi	249 196 S.T. 41 S.C. 12 O.C.	227 196 S.T. 19 S.C. 12 O.C.	X	22 All S.C.	69 61 S.T. Nil S.C. 8 O.C.	158 135 S.T. 19 S.C. 4 O.C.
TOTAL		390	227	11	152	131	226

Source: Data Bank, Tribal Research Institute, Orissa.

After some time, 62 families (58 S.T. and 4 O.C.) deserted this resettlement site and changed over elsewhere.

Parajapondi Affected Families

Out of 249 families in this village, 22 S.C., group families went over elsewhere on their individual resettlement. And the remaining 227 families were rehabilitated in Camp No. IV. But, in course of time, 69 families, out of the 227 resettled families in this Camp No. IV changed over elsewhere to stay with their relatives. These 69 families consisted of 61 S.T. and 8 O.C.

The dues of every individual family, in the matter of compensation covering agricultural and homstead lands, including house-valuation amounts etc. were paid off to them, according to embodiments, by the period of evaluation.

The displaced families of Gopalput and Parajapondi were evaluated by June, 1985 and June, 1987 respectively, towards their resettlement.

The Rehabilitation benefits extended by Government to the displaced families are summarized below:

- 1) In all cases, reclaimed lands are provided to a displaced family;
- 2) Each such family gets 3 Acres of irrigated land; or

alternatively 6 Acres of unirrigated land equivalent to the former, for agricultural purpose;

- 3) In addition to above, half Acre of homestead land is provided to a family;
- 4) Compensation is provided for the Lands acquired under the land Acquisition Act, with Extra rates, covering Agricultural and non-agricultural areas, including dwelling houses and standing crops and trees.
- 5) The affected family could exercise option, either to be provided with land and house in the Resettlement area; or to receive cash grant, in lieu of it.
- 6) Cash grant at the rate of Rs. 2,160 per acre (that is Rs. 14,090.00 for 6 acres of agricultural land and half for homestead area) was the stipulation.
- 7) Part-land in the "REsettlement Area" earmarked by Government, and part cash grant at the same above, rate, was permissible too, according to exercise of option of the affected family.

In this context, it was revealed, that the 11 families of Gopalput submerged village, who opted to go to Camp.No.VII took 17.50 acres cultivable reclaimed land and Rs. 2160.00 cash grant per acre in lieu of the remaining land-area. The rest 130 families of this village received full cash grant and opted to arrange their own rehabilitation at their own will, in the consequence of

which, they occupied the non-submergence portion of Gopalput area. (While the 11 families were all S.C. the 130 families consisted of 108 S.T., 8 S.C. and 13 O.C. of this village Gopalput).

Similarly, in Parajapondi village, while 22 families (all S.C.) opted to receive cash grant fro their self-rehabilitation, the remaining 227 families (196 S.T. 19S.C. and 12 O.C.) opted for rehabilitation in the Government Resettlement area.

The main reasons for which some of the displaced families did not like to go the Resettlement Area are:

- 1) A displaced family does not eligible to get compensation for the land-portion which does not submerge, even though he wins compensation for his submerged portion or portions of his land areas. In such a case, he does not give up his attachment for the left-over lands in the village consequent upon which he tries to stay in the vicinity of his non-submerged land-limit;
- 2) The villagers carried a notion that adequate facilities, chiefly for cultivation and labour employment purpose etc. are not readily available in a Resettlement area;

- 3) The site, since occupied by some families of Gopalput offers obvious convenience to the resettlers compared with other sites as already outlined earlier.

Inspite of the convenience in Gopalput resettlement area, some families deserted it because they felt that they would be more harmonious in the midst of their relations.

CHAPTER : FOUR
LEGISLATIONS AND ITS IMPLICATIONS

CHAPTER - 4

LEGISLATIONS AND ITS IMPLICATIONS

4.1 INTRODUCTION

After Independence, the Government devoted its attention to the over-all development of the tribals. To give a concrete shape to tribal welfare programmes, the constitution of India provides several important safeguards - social, economic, political and educational. In the Schedule 5. Special provisions in regard to the administration and control of Scheduled Areas predominantly inhabited by the Scheduled Tribes were also made.

4.2 EXISTING LEGISLATIONS FOR PREVENTION OF LAND ALIENATION

In order to restrict the alienation of lands belonging to Scheduled Tribes in the Scheduled Areas spread out in the districts of Koraput, Mayurbhanj, Sundargarh, Khondmal, Balliguda Sub-division of Phulbani district and the Agency areas of Ganjam District - the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes, (Regulation II of 1956) was promulgated with effect from 4th October, 1956.

As regards the non-Scheduled areas, provision was made under Sections 22 and 23 of the Orissa Land Reforms Act of 1960, restricting transfers of tribal land. This Act was enforced with effect from 1st October, 1965.

Regulation II of 1956 provides that any transfer of immovable property belonging to a member of a Scheduled Tribe to a member of a non-Scheduled tribe, shall be null and void, unless effected with the permission of a competent authority (i.e., a Sub-Divisional Officer). Similar provision has also been ^{made} under Section 22 of the Orissa Land Reforms Act of 1960. The procedure for the grant of permission under Regulation II has been prescribed under the Orissa Scheduled Areas Transfer of Immovable Property (the Scheduled Tribe) Rules 1959.¹ According to this procedure, a member of Scheduled Tribe, who intends to transfer any of his immovable property situated within the Scheduled Areas to a member not belonging to such a tribe, shall submit an application for the purpose and obtain the prior approval in writing of the competent authority under section 3(1) of the Regulation. On receipt of such application the competent authority shall make an inquiry of a summary nature by an officer duly authorised by him before passing orders for a transfer of land. It has, however, been provided in the Orissa land Reforms Act of 1960 that the Revenue Officer (i.e., the Sub-Divisional Officer) shall not grant such permission unless he is satisfied that a purchaser belonging to a Scheduled Tribe and willing to pay the market price for the land.²

1. Orissa Land Reforms Acts, 1960, Orissa Government Press.

2. Ibid.

Registering officers are also prohibited under section 4 of the Regulation from accepting any document for registration relating to transfer executed by a member of Scheduled Tribe in contravention of the provision of the Regulation. Similar provision has also been made under Section 22 of the Orissa Land Reforms Act, 1960. Section 6 of Regulation II of 1956 and Section 22 of the Orissa Land Reforms Act of 1960 prohibit the sale of mortgaged Land in execution of a money decree against a member of any Scheduled Tribe. Section 7 of the Regulation prescribe a penalty of an amount not exceeding Rs.100/- per acre of immovable property for each year or any part thereof during which a person is found to be in unlawful possession of such property in the Scheduled Areas of the State in contravention of the restriction imposed under Section 3 of the Regulation.³ Section 23 of the Orissa Land Reforms Act of 1960 also provides for a penalty of Rs. 200/- in the non-scheduled Areas of the State.

In the proceedings under the Regulations and the Act relating to the transfer of the lands of Scheduled Tribes to others, the burden of proof, that the transfer is valid, lies on the transfers. Under the Orissa Land Reforms Act of 1960, the time limit for establishing title to the lands

3. Ibid.

transferred by person belonging to a Scheduled Tribe shall be 30 years in the he non-scheduled areas of the State, instead of 12 years. There is no provision in Regulation II of 1956 to restrict interlocutory interference of a Civil Court. Under Section 67 of the Orissa Land Reforms Act of 1960, it is however, provided that no Civil Court shall have jurisdiction to entertain any matter which any officer or other competent authority is empowered to decide under this Act.⁴

In order to deal with cases relating to transfer of immovable property belonging to a member of a Scheduled Tribe to a person not belonging to a Scheduled Tribe, Sub-Divisional Officers have been declared as competent authorities under Regulation II of 1956. Similarly, under Orissa Land Reforms Act of 1960, the Sub-Divisional Officers have been declared as Revenue Officers who are competent to deal with such cases. Where the cases under Regulation are many, Special Officers have been posted to deal exclusively with them. In some places Tahasildars have been declared as competent authorities to safeguard the interests of the tribals. Instructions have also been issued for the immediate restoration of lands to tribal transferers in respect of illegal transfers. This regulation was followed

4. Orissa Land Reforms Act of 1960, Orissa Government Press.

by some land reforms, which were initiated by the Government of Orissa to uproot the intermediary system and to free the tribals from rack-renting and land alienation. The Orissa Estate Abolition Act of 1952 initiated major land reforms, which include the abolition of Zamindari and other types of intermediary interests.

With a view to safe-guarding the interests of tribals in Scheduled Areas more effectively and improving their socio-economic conditions Regulation II of 1956 has been amended with effect from January 21, 1989. The amended Regulation has the following important provisions bearing on land alienation and land restoration in tribal areas:⁵

- i) The period of limitation for establishing title on the land transferred by a person belonging to a Scheduled Tribe has been increased from 12 to 30 years.
- ii) The restriction on the transfer of land by way of mortgage by a member of a Scheduled Tribe in favour of different financing institutions has been relaxed in order to enable tribal to obtain a loan for agriculture purpose.
- iii) The right of alienation of land by tribals in favour of cooperative societies, cooperative banks and other

5. Orissa Scheduled Area Transfer of Immovable Property (the Scheduled Tribes) Rules (Amendment), 1989.

financial institutions has been restricted only to enable tribal to obtain loans for agricultural purposes.

- iv) Power has been conferred on the Courts to ignore admission by members of Scheduled Tribes to counteract collusive title suits.
- v) Actual possession of the land to the transferer or his heirs in whose favour restoration of possession has been ordered by the competent authority has been ensured.
- vi) Eviction of unauthorised occupation of any immovable property of a member of a Scheduled Tribe by way of trespass or otherwise and restoration of such property to the said member of the Scheduled Tribe or his heirs has been ensured, and it has been provided that rigorous imprisonment for a term which may extend to two years or with fine which may extend to Rs. 2000/- or both, may be imposed on those found guilty of such unauthorised occupation.
- vii) Summary eviction of a non-tribal transferee from the immovable property of a Scheduled Tribe person has been provided in addition to the higher penalty of Rs. 200/- and payment of such portion of the penalty as the competent authority may order to the transferer or his heir.

viii) It has been further provided that the consideration money paid by the transferee to the transferer for such invalid transfer shall not be refunded. Steps are being taken to safeguard the interests of Scheduled Tribe in the non-Scheduled Areas of the State by making the necessary provisions in the Orissa Land Reforms Act of 1960 in the light of the amendments to the Orissa Regulation II of 1956.

For strict enforcement of the Regulation in the Scheduled Areas and to ensure steady progress in the disposal of land alienated cases, the State Government ^{has} ~~have~~ provided a fairly effective administrative machinery staffed by competent officers to enforce these preventive measures. Under Regulation II of 1956, the District Collector is required to ensure effective implementation of specific provisions which are out of the jurisdiction of the Civil Courts. The enforcement agencies have been strengthened with staff drawn from the Revenue Department as well as the Tribal and Rural Welfare Department. The pace of detection of illegal transfers has been stopped, and special officers posted in each Sub-Division of major tribal districts for speedy disposal of cases. The Revenue administrative structure at the district level has been made responsible for enforcing the provisions of these Regulation/Acts. The Special Officers posted for disposal of the cases under

Regulation II of 1956, and the Sub-Divisional Officers who exercise concurrent jurisdiction in this regard, act under the over all administrative supervision of the Collector. The Tahasildars and Revenue Supervisors as well as the Revenue Inspectors working under them in the field have a special responsibility to keep a strict vigil on incidence of illegal transfer of tribal land, detect such cases and file them before the prescribed Courts.

In addition to the Revenue field staff, Tribal Welfare officers and field staff have also been responsible for the detection of cases of illegal transfers of land. The Tribal Welfare Staff posted in Community Developmental Blocks, and the Sub-Divisional Office, have been made responsible for the detection of cases over and above those by the Revenue agency mentioned above. The Revenue Divisional Commissioner, the Board of Revenue, the Revenue Department and the Tribal and Rural Welfare Department conduct a monthly review of the cases detected and disposed of, the extent of land restored and the penalty impose, and issue specific executive instructions from time to time. Non-official agencies like Panchayat Samities and Gram Panchayats, MLAs, MPs and the people are also fully involved in the detection of such illegal transfers. Subsequent to the enforcement of these above mentioned laws a large

Table No. 4.1: The Latest Figures of the Department of Revenue on Disposal of Various Cases Concerning Land Alienation are given below:

Sl. Districts No.	Cases instituted at the beginning of the month		Cases instituted during the month		Total case	Area involved (ACRES)	Disposal of cases by month end	Balance
	SUO MOTO	ON APPLICATION	SUO MOTO	ON APPLICATION				
1. Balasore	41	17	-	-	58	29.66	50	8
2. Ganjam	157	3928	-	-	4085	3170.48	4051	34
3. Mayurbhanj	2447	3720	1	4	6172	6211.45	5898	274
4. Koraput	21704	4809	-	-	26513	36514.25	24681	1832
5. Keonjhar	199	159	-	-	358	320.42	298	60
6. Sambalpur	98	28	-	-	126	113.49	107	19
7. Sundargash	2941	1347	-	-	4288	2998.37	3904	3884
8. Phulbani	23844	162	38	1	24045	10088.66	23593	447
9. Kalahandi	42	24	-	-	66	137.50	64	2
Total	51473	14194	39	5	65711	59684.78	62651	3060

Source: Department of Revenue, Government of Orissa, 1992, March.

Table No. 4.2: Case Decided In Favour of Tribals

Sl. No.	Districts	Decided in favour of tribals			
		No.of case	Persons benefitted	Area order for restoration (acres)	Area physically restored (acres)
1.	Balasore	28	28	11.69	10.31
2.	Ganjam	1617	1617	1191.83	1144.19
3.	Mayurbhanj	886	1044	734.19	571.35
4.	Koraput	15030	14855	28345.25	27874.60
5.	Keonjhar	205	205	150.01	129.39
6.	Sambalpur	25	31	15.79	5.98
7.	Sundargash	1934	1937	1083.06	N.A.
8.	Phulbani	11860	11785	5166.39	4981.19
9.	Kalahandi	46	46	86.96	79.99
Total		31631	31548	37951.48	31103.01

Source: Department of Revenue, Government of Orissa, 1992, March.

number of cases of illegal transfers were detected in the state by different agencies and orders passed for the restoration of large quantities of tribal land. Table 12: Reveals the number of cases instituted and decided in favour of tribals.

4.3 INADEQUACY OF THE EXISTING LAWS

Although the laws and legislations which have been framed are quite exhaustive and adequate yet certain difficulties are encountered while dealing with this problem. For effective implementation of these laws, both the people in charge of detecting land alienation cases and the affected tribal people who are educationally backward, are quite ignorant about these laws. Further, many of them exercise utmost restraint to reveal this problem either before a Government servant or any individual who wants to help them, because of the fact that the non-tribal money lender/ land lord may put them in trouble and harass them in multiple ways. The perpetual poverty and debt of the tribal people is also adding to the magnitude of the problem. Many of them feel that if they will raise their voice against these people what would be their fate in future when they are in need of money or grain or cattle to meet their requirements.

In course of implementation of various provisions prescribed to control and check transfer of immovable properties by scheduled tribes, several difficulties have been encountered because of inadequate powers delegated to the officers authorised to deal the cases of transfer and also of emergence of new situations in the tribal areas. On the basis of decisions taken on the State Government, a few amendments to the existing provisions have been made and a number of executive instructions have been issued by Government from time to time. Some of the difficulties faced and inadequacy of the provisions are enumerated below.

1. Inadequacy of powers delegated to officers of different cadre;
2. The minimum punishment which includes both imprisonment and fine on conviction is not heavy enough to serve as deterrent;
3. There is no provision for second appeal or revision over the appellator orders of the collector and a result of which litigant parties are dragging the tribals to the High Court.
4. Absence of a comprehensive list of sub-tribes, sub-groups or synonyms of each tribal scheduled in the list of Schedule Tribes causing exclusion of the justified relief to some of the tribal sub-groups under the protection extended by the Government.

5. Inadequacy of staff to conduct field survey of cases ordered for restoration and ascertain if instances of re-occupation have occurred.
6. Provision for conducting inquiry to find out if the applicant is seeking permission to transfer and has sufficient land to maintain his family and whether he could meet the obligations by obtaining resources from co-operative or institutional sources and whether any other person of the same tribe, is willing to purchase the land, has not been made.
7. Provision to withhold permission for transfer of tribal land to a tribal woman who has married to a non-tribal person.
8. Rigorous punishment not prescribed for repeated attempts to grab tribal land or re-occupy the restored land.

4.4 SUGGESTIONS FOR THE IMPROVEMENT OF LEGAL PROVISIONS

Despite various amendments made and issuing of a number of instructions by the Government from time to time to plug the loopholes and the shortcomings in Regulation-II, the situation is far from being perfect. Various people, from the Government and the non-Government sector have suggested some proposals for inclusion in the legislation for better redressal of the grievances of the tribals. The suggestions are as follows:

1. Section 2(e) : It has been proposed to include "standing trees" in the definition of 'immovable property'.
2. Section 3(1) :
 - a) proposed amendment restricts transfer within the S.T. community if the tribal transferer owns land below the minimum viability level i.e. one standard acre.
 - b) second sale within 5 years is to be prohibited.
 - c) consideration money in each sale should be deposited in the name of the transfer in a passbook before registration.
3. Section 3 (A)(1) : it is proposed to increase the penalty from an amount of Rs.200/- to not exceeding Rs. 2000/- per acre for unauthorised occupation of tribal land.
4. Section 7(A) : Proposed amendment is to vest the power of Judicial Magistrate with the Executive Magistrates.
5. Section 7 (1) It is proposed to enhance the penalty from Rs. 200/- to Rs. 2000/- per acre per year for occupation of tribal land in contravention of the provisions in the Regulation.
6. Section 7 (e) a) Proposed amendment seeks to wider its scope so as to cover all disputes regarding ownership over land. In all matters of disputes regarding immovable property, the onus should be on the

transfereee defendants to prove that right, title and interest on the property do not belong to S. T.

b) To insert a provision barring the jurisdiction of the Civil Court.

c) Where restoration of property is not feasible her desirable in the interest ofthe Triabls, the actual value of the property may be leived as penalty and paid to be Tribal or to his leagal heir.

7. Apart from this another proposal giving revisional powers to the Collector as well as Revenue Divisional Commissioners is under active consideration of Government.

8. With a view to checking and regulating alienation of land belonging to Scheduled Tribe persons of the non scheduled areas of the State, similar protective provisions have made under various sections [namely:22, 23, 23-A, 68(3)] of the Orissa land Reforms Act, 1960.

SUMMARY AND CONCLUSIONS

SUMMARY AND CONCLUSIONS

This study thus explores the problem of land alienation in Orissa and seeks to find out a few solution in the form of strengthening the legislative measures. The basic types of land alienation observed was by sale or mortgage, by leasing out or by forcible encroachment. This was found in all the 19 sample villages.

The number of land alienated households constitute 6.25 per cent of the total number of households. The total amount of land alienated is 125.6 acres of which 80.95 acres have been transferred by sale, 30.95 acres by mortgage and 10.24 acres by forcible occupation. These figures reveal that land alienation as a process of depriving people of their homesteads and agricultural land exists in the tribal pockets of the state and it is very consistent in its occurrence. This aspect can be seen from the fact that between 1960-70, 1971-80 and 1981-90 the land alienation cases are occurring in equal frequencies. It is revealed from the study that of all the sources of land alienation, most of the lands has been lost to non-tribals. This bespeaks of the disturbing trend of land alienation despite legislations for prevention of transfer of land from a tribal to a non-tribal. This proves the breakdown of the administrative machinery which is supposed to prevent such

loss of land among tribals by arranging institutional fund for them. The absence of such funds has pushed the tribals into indebtedness.

There has been another kind of land alienation in the state which doesn't call for such preventive legislations, rather a policy which aims at rehabilitating the people after they have suffered a land loss. The case of the tribals of the Upper Kolab Project in the Koraput district of the state is one of grave importance. Here also, the government machinery have failed as the majority, as many as 90 per cent of the tribals had to go on their own rehabilitation process.

All this proves two basic points. On the one hand it speaks of the preponderance of the land alienation problem in its various forms in the state and on the other, it reveals the vulnerability of the tribals due to inappropriate protective legislation by the state.

It is an established fact that not only in Orissa but also all over the country, the land belonging to the tribals are passing out into the hand of the non-tribals. The tribal people, because of their ignorance about the laws and regulations are not seeking the help of Government officials or court of laws to restore back their lands which are alienated from them. Therefore, vigorous efforts should be

made to create a general awareness among the people about the legislation by organising legal-aid camps in village. Moreover, in adult education programmes and in the night schools, teachings should be imparted about the usefulness of these legislations. The economic development of the tribals should be given top priority. The programmes related to economic upliftment of the tribals should be implemented with all sincerity and honesty. Steps should be taken to bring the credit facilities to each and every village by simplifying the credit procedures. Unless the people are economically self-sufficient they are bound to borrow money from money lenders again and again for one reason or the other, which will lead to land alienation in the long run.

The drive for modernization and industrialization pursued by all Indian Governments committed to the improvement of the country's standard of living does not augur well for the future of tribal populations affected by projects promising to raise industrial output. This applies in particular to hydroelectric and irrigation projects located in hilly country inhabited by tribals whose land is to be submerged by the construction of reservoirs. At a time when a growing population pressure has produced a scarcity of cultivable land throughout India, any resettlement of displaced communities is inherently

difficult and tribals, who have no political pull, are likely to remain at the back of the queue for land promised as compensation for their holdings sacrificed on the tales of India's modernization.

There can be no doubt that the establishment of vast industrial enterprises in tribal zones tends urgency to the extension of measures to all tribals whose rights and way of life have been planned in jeopardy. The architects of the Indian constitution were determined that, while the age-old isolation of the Scheduled Tribes would have to be ended, they should be saved from exploitation and from the erosion of their rights to their ancestral land. It was clear that this aim could be achieved only by special legislation, but unfortunately for the tribals the original idealism of politicians and legislators is wearing thin, and while the laws of protecting tribals are still in existence, their implementation leaves much to be desired. Even among educated Indians, ^{where} ~~there~~ seems to be a growing unwillingness to face the fact that forty million tribal people, will for a long time form a separate and unassimilated element within the Indian nation. While many may concede that there is a need for some special protection, there is also a wide spread feeling that any privileges enjoyed by tribes were required only for a period of transition, and that within a span of perhaps ten or twenty years the integration of the

tribals within the mainstream of the population should be completed, whereupon there would be no more justification for the continuation of scheduled areas and privileges for scheduled tribes.

This new trend in public opinion represents as great a threat to the future prospects of tribals as the greed of land-grabbers does to their present well being. The manner of the integration of the tribals into the wider Indian society will ultimately be determined by political decisions, and these will be made on the basis of moral evaluations. It thus seems that unless the intellectually leading sections of the Indian population develop a spirit of cultural tolerance and an appreciation for tribal values, even the most elaborate schemes for the economic improvement of tribal populations are likely to prove abortive. The socio-economic formation of the tribal system cannot be modified without disturbing the unequal land ownership. Hence, the problem of land alienation is a part of the bigger problem of the existence of the unequal class relations in the society.

In addition I can quote from the principles which Jawaharlal Nehru, the most idealistic of Indian politicians, formulated as a guideline for the policy to be pursued by his administration in its dealings with tribals:

*'people should develop along the lines of their
own genius and the imposition of alien values
should be avoided.'*

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