Status of Indigenous Peoples in India

Dr. Basavi Kiro

1. Overview

The indigenous population of the world is more than 700 million, including 7,000 indigenous communities and cultures. In the Commonwealth, the majority of the indigenous population lives in South Asia, with approximately 15 million indigenous peoples living in India alone. Importantly for this study, half of the total indigenous population are women.

There are few studies on the status of tribal or indigenous women in South Asia. For relevant development programmes to be made and implemented a proper understanding of the specific issues facing them is still much needed. A cursory study of the different tribes and indigenous peoples of South Asia, indicates that the status of tribal women is comparatively lower than that of tribal men, and that their situation has gone from bad to worse as a result of the impact of recent social changes which have seriously affected the social structure of tribal society.

India

India is home to more than 150 million tribals or adivasis (original inhabitants), forming 15 per cent of the total population. About 150 million persons have been enumerated in the country as members of the Scheduled Tribes (2015 census). There are 705 tribal ethnic groups living in India. These include the Oraon, Munda, Santhali, Khariya, Ho, Naga, Mizo, Bodo, Aadi, Aapatani, Sherdukpen and Khasi, to name a few.

The Scheduled Tribes are spread across the central, northeast, and southern regions of India. The state with the largest proportion of tribals is Mizoram with 94.8 per cent and the state with the lowest proportion is Uttar Pradesh with 0.2 per cent. The various tribes resided in India long before the Aryans who arrived around 1500 BC. The tribals were socially and geographically isolated following the entry of the Aryans and then subsequently the Muslims and the British.

The more than 50 tribes that constitute the Scheduled Tribes speak a multitude of languages. They are also religiously diverse, with some following animism, while others have adopted Hinduism, Islam, or Christianity. The social customs of most tribals distinguish them from the country’s majority Hindu population.

The category of Scheduled Tribes was established in 1950, three years after India’s independence. It sought to encompass the country’s diverse tribal groups under a common banner in an effort to help address the disadvantages the tribes encountered and to integrate them into the mainstream of Indian society. Along
with being geographically and socially isolated, the tribals have historically been politically underrepresented and their regions of residence economically underdeveloped. Scheduled tribe status under the Indian constitution means that seats are reserved for tribals in political forums such as the parliament, along with job reservations in the civil service and educational institutions.

Primitive tribes, who are part of the 705 tribal ethnic groups, are the most vulnerable. Their actual condition is pathetic and their social, cultural, economic and political situations are graver than the major tribal communities. The serious social and cultural issues of the major tribes have been discussed regularly at international forums, but unfortunately anthropologists, ethnologists, sociologists, politicians and intellectuals have chosen to close their eyes to the problems of primitive tribes. Weak and ignorant as these groups are, they are not in a position to even name their existential situation. In India, there are 75 primitive tribal groups who live in hill-caves, dense forests and other geographically tough areas.

Despite official policies aimed at improving the status of the tribals, significant disparities remain. The Scheduled Tribes face significant demographic stresses due to deteriorating public health conditions in relation to other groups in the country. For instance, sanitation facilities and access to clean drinking water are severely limited in both urban and rural tribal areas. Further, the Scheduled Tribes have lost their lands as the country has adopted large-scale projects such as the Narmada, Bhakhara Nanga, Hirakund, Damodar, Polavaram dam project. The construction of numerous dams across Gujarat and Madhya Pradesh states has resulted in thousands of tribals losing their lands and in a number of cases they have not been provided with alternative property as compensation/rehabilitation and resettlement.

There are a number of common grievances among the Scheduled Tribes. The protection of their culture and life ways is a key issue along with desires for self-government through the granting of broad autonomy. Encroachment on tribal lands by other groups and commercial interests has gained international attention in recent years due to government-sponsored mega-projects such as the Narmada dam system. Limited economic opportunities in tribal areas have also meant that the Scheduled Tribes are among the poorest in Indian society and they have been left out of the country's economic liberalization campaign launched in the early 1990s.

The interests of the Scheduled Tribes are primarily represented by broad-based conventional organisations but there has been an enduring militant force that draws some significant group support. Conventional tribal interests have traditionally coalesced around specific issues such as demands for the creation of a separate tribal state (Jharkhand Mukti Morcha) or the protection of tribal land (Narmada dam project).
During 2000, of the three new states created in India, both Chhattisgarh and Jharkhand, contain significant tribal populations. The creation of the tribal state of Jharkhand went some way towards pacifying the decades long tribal rebellion in this region.

At the United Nations, in 1982, the representative of the Government of India, Mr. Jayant Prasad, stated that there were no indigenous peoples in India. Since then the government of India has continually refused to equate tribal ethnic groups with indigenous peoples. As far as the tribals of India are concerned, however, the "Scheduled Tribes" are in actuality "indigenous peoples". Indian government delegations seem set to continue to raise the issue of definition of indigenous peoples at the United Nations, despite the fact that the constitutionally mandated Scheduled Areas and Scheduled Tribes Commission of India clearly stated in its report on 14 October 1961, much before United Nations started its debate on indigenous peoples, that the Scheduled Tribes are the original inhabitants and internationally they are known as indigenous peoples.

Region: Andaman Islands, India

The Jarawa people of the Andaman Islands lived until very recently in almost complete isolation. Their population is mere 200 to 300. Both British and Indian settlers have moved onto their islands over the last 150 years, but until 1998 the Jarawa chose to resist all contact with them.

The Jarawa are very different in appearance to their Indian neighbours, and DNA tests suggest that their closest relatives are African. Because of the Jarawa's voluntary isolation, and the fact that no one outside the tribe really spoke their language, little was known about them until recently. We do know that they live a hunter-gatherer lifestyle, hunting pig and monitor lizard, fishing with bows and arrows, and gathering seeds, berries and honey. They are nomadic, living in bands of 40-50 people. In 1998, some Jarawa started coming out of their forest to visit nearby towns and settlements. From what can now be understood of their language, it seems that pressure from poachers on the coast drove them inland. Although a few Jarawa still come out onto the road or into settlements to visit, they continue to live a self-sufficient life in the forest.

Source: Survival International website:
http://www.survival-international.org/tribes.php?tribe_id=37
2. Land Alienation and Land Rights in India

Land alienation is the biggest crisis facing indigenous peoples in India, Bangladesh and Sri Lanka and the struggle for land and resource rights is one of their greatest challenges.

India

Among tribal societies in India, land ownership is communal, not individual, and no villager enjoys property rights on land. Moreover, the state government does not have the power to acquire land. That is vested in the autonomous district councils that Delhi has created for the tribes people to protect their land rights, customs and way of life.

However, many of the industrial projects in India, such as the building of dams and power stations, have been constructed on land where there are large concentrations of tribals. In the recently established tribal state of Jharkhand, for example, the Heavy Engineering Corporation and Tata Steel Company have built extensively on tribal lands. As a consequence, thousands of indigenous peoples have been uprooted from their traditional habitats and only a small percentage of the displaced have been given compensation. No one knows what has happened to the many tribals who have been displaced, and where they have gone to.

Despite the Chotanagpur Tenancy Act (CNT), 1908, and Santhal Pargana Tenancy Act, 1949, which prohibit the transfer of land to non-tribals and ensures community ownership and management rights of tribals over their traditional lands, 7,25000 acres of tribal land in Jharkhand were grabbed by various agencies and the government during 1993-1995. Since Independence, over 15 lakh (1 lakh = 100 thousand) people are estimated to have been displaced in Jharkhand alone, the majority of whom are tribals. Lakhs of tribals, including women, are forced to migrate every year from the state in search of jobs and food.

The fact that the legal basis of eminent domain is inapplicable in the social system of tribals was tacitly acknowledged by the report of Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission) way back in 1961. The Commission had clearly recommended that “all surrenders (of tribal lands) must only be to the state, which should hold the surrendered land as a trustee for tribals.” Once it is understood that the state is not the owner but the trustee under legal duty to protect the natural resources, the state sovereign would be precluded of the land without the owners’ free and informed consent. However, as long as the communal rights of the tribals are not identified, recognised and respected it will be impossible to hold the State accountable as a trustee, and for breach of trust.

1 Jharkhand Tribal Welfare and Research Institute, Annual Report, Ranchi, India.
The provisions of the Panchayat (Extension to the Scheduled Areas) Act 1996 deserves special mention in this context. The Act specifically empowers the Gram Sabha (village council) and the Panchayat (village governing body) to "prevent alienation of land in the scheduled areas and to an appropriate action to restore any unlawfully alienated land of scheduled tribes." Further, the Act also provides that the Gram Sabha or the Panchayats shall be consulted before making the acquisition of the land in the scheduled areas for various public purposes. A host of other powers of control over the local natural resources are vested with the Gram Sabha. The provisions in this law have however remained paper tigers.  

Under the 1996 Panchayat Act, Tribal Advisory Councils have been formed in the Scheduled Areas with provisions to hold meetings twice in a year. However, meetings are not held regularly in any of the 16 states which have Scheduled Areas in them, which is a grave violation of the Constitution.

In Jharkhand, for example, for the last five years, only three such meetings have been held. The Administrative Reports of the tribal areas in Jharkhand are not sent regularly to the Government of India. Only one such report has been sent in the last five years.

In the past, tribal villages were entirely male dominated. But, increasingly women are becoming involved in the important village-level organisations of the Gram Sabha and the Panchayat, as well as in less important mixed-gender and women-only organisations. Traditionally, even among more egalitarian tribal communities, women have not taken part in the Gram Sabha, but this is slowly changing. The Gram Sabha is the traditional community organisation and the supreme decision-making body, presided over by the elders. Every caste group is represented on it. Normally it is unregistered. Villagers see it as their organisation. The more isolated the village from government programmes, the more important the Gram Sabha is in organising community development action.

Women are coming to have a more visible role in the Panchayat. Villagers regard the Panchayat as the official 'agency of the government' that mediates government instructions and works. Thirty-three per cent of the Panchayati Raj is reserved for women, resulting in five to seven women members. The president, or panch, of the Panchayat is elected from among the tribals, with the vice-president occasionally elected from non-tribals. On occasion, women compete with men for the panch, and do get elected. There are Panchayat presidency posts expressly reserved for women, but a study conducted by the International Fund for Agricultural Development (IFAD) in Madhya Pradesh in 1997 found that even in those Panchayats, the women seemed to be acting only as figureheads.

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or official contact persons.\(^4\) In fact, it is the traditional male leaders or husbands who conduct the affairs of the Panchayat. The women presidents whom the researchers of the IFAD study met were completely marginalised and did not even know the number of existing members in their Panchayats. In one case, the female president was conveniently deaf and dumb. Generally, the study found that women consider the Panchayat and the Gram Sabha to be male dominated, and to not adequately consider their point of view.

Andaman Islands, India

The principal threat to the Jarawa's existence comes from encroachment onto their land, which was sparked by the building of a highway through their forest in the 1970s. The road has increasingly brought settlers, poachers and loggers into Jarawa land, who steal the tribe's game and expose them to disease. There are also reports of sexual exploitation of Jarawa women. In 1990 the local authorities announced that they intended to forcibly settle the Jarawa, but nothing happened. A local lawyer brought a court case in 1999 in an attempt to force the government to carry out its promise. Forced settlement was fatal for other tribes in the Andaman Islands, and has always been so for newly contacted tribal peoples worldwide: it introduces diseases; destroys all sense of identity and society; robs tribes of their self-sufficiency; and leaves them vulnerable to alcoholism and despair. In the wake of a vigorous Survival International campaign, it appears that the authorities no longer intend to settle the Jarawa, but some of their interventions in the name of 'welfare' still pose a threat.

Source: Survival International website:
http://www.survival-international.org/tribes.php?tribe_id=37

HIV/AIDS

HIV/AIDS has spread rapidly in South Asia since 1990, affecting over 4.2 million people by 2001. While there are no reliable statistics for indigenous peoples living with HIV/AIDS in South Asia, there is reason to believe that it poses a real threat to indigenous peoples in India, Pakistan, Bangladesh and Sri Lanka. The raging epidemic is fueled by poverty, illiteracy, inequality and social marginalisation. Migration, displacement and conflict stalk it further.

A UNDP study indicates that nearly 36 per cent of all people living with HIV/AIDS in South Asia are women.\(^5\) The low socio-economic status of women in the countries in this region often leaves them with little choice in the matter of safe sex. With indigenous women often being the poorest of the poor, they are at high risk of HIV/AIDS.


In Bangladesh there are 13,000 people living with HIV/AIDS, whereas India's adult HIV prevalence rate is currently less than one per cent according to the National AIDS Control Organisation (NACO). But in real numbers, the overall figure is the second highest in the world after South Africa. NACO announced in July 2003 that there are 4.5 million HIV positive people in India, a significant increase over the 3.97 million cases reported in 2001. The epidemic is spreading like wildfire. The NACO Project Director, Minakshee Dutta, reported that 61.5 per cent of HIV positive Indians are men. The disease is gradually spreading into rural areas. The rate of infection rising among vulnerable groups, such as tribals in Pakistan, Bangladesh and Sri Lanka is high. In Pakistan there are 78,000 people and in Sri Lanka 4,800 people estimated to be living with HIV/AIDS in 2002 (UNAIDS, HIV/AIDS in Asia, 2002). A World Bank study in India claims that 90 per cent of HIV infected women are married and have sex with only one partner - their husband.

An increasing concern is blood safety. In 1995, a World Trade Organisation (WTO) programme on AIDS estimated that less than half the number of blood transfusions in the region were being routinely screened for HIV. In Bangladesh and India it remains far from complete. In 1998 the Supreme Court of India banned buying blood from professional donors. There is widespread use of unsterilised needles in Pakistan and exposure to infected blood or blood product accounts for approximately 20 per cent of reported cases.

Forest Ecology and Women's Health

The forest based tribal ecology in most parts of the world is women-centred. Women make provision for the basic necessities like food, fuel, medicine, housing materials, etc, from the forest produce. Food is obtained from shifting cultivation and from minor produce like flowers and fruits. Extraction from herbs, roots and animals are used for medicine. All these efforts incur an excessive workload on women. This workload is fast increasing with the extensive felling of trees, which increases the distance between the village and forest areas.

Studies of tribal communities in Orissa have found that an ecological imbalance caused by rapid deforestation has resulted not only in depleting food resources, but in prolonged droughts, causing hunger, malnutrition and even starvation. The implications of deforestation for the health of tribal women are complex; because the tribal woman is responsible for the provision and distribution of food, in cases of shortage, she often deprives herself of food in order to feed others, resulting in undernourishment, which has particular implications for pregnant and breastfeeding women. Additionally, because of the extensive felling of trees by vested interests, the distances between the villages and the forest areas are increasing, forcing tribal women to walk longer and longer distances in search of minor forest produce and firewood. As a result the tribal woman's workload has been greatly increased. Even women in advanced stages of pregnancy are
required to work in the agricultural fields or walk great distances to collect fuel and forest produce.  

In addition to the malnutrition and additional workload experienced by tribal women as a result of deforestation, the destruction of traditional herbs combined with the lack of access to modern medicine, has resulted in diseases such as TB, stomach disorders and malaria.

Women and Youth – Education and Access to Educational Facilities

The educational status of indigenous women in South Asia has been found to be far lower than that of South Asian women in general and lower than that of indigenous men. The literacy levels of indigenous women in South Asia are among the lowest of the world. The low level of literacy among tribals in South Asia not only has a negative impact on women’s lives but also on their families’ lives.

In South Asia, females tend to be the principal caretakers in families and it has been shown that better education can enable females to improve their own health as well as that of their families. This provides economic benefits in terms of averted costs for treatment of illness and in terms of productivity increases, and reduces mortality rates of mothers and infants. Research shows that illiterate women have high levels of fertility and mortality, poor nutritional status, low earning potential and little autonomy within the household. A woman’s lack of education also has a negative impact on the health and well-being of her children.

There are several reasons for the low level of literacy in South Asia, not the least of which is the high level of poverty. One of the significant indicators of underdevelopment is the prevalence of poverty and a direct link has been established between poverty and the level of female education in a society. Over one-third of the population in India is estimated to be living below the poverty line.

*The lowest enrolment of girls - and the largest gender gaps – are inevitably in the poorest and the least economically developed areas, especially in rural communities where educational provision is poor, among children of the poorest families. (Brock and Gammish, 1991, quoted by Leach, 1998:13)*

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http://www.hsph.harvard.edu/grhf-asia/forums/Tribals/Tribals/M002.HTM

7 Ibid.

Negative parental attitudes toward educating daughters can also be a barrier to a
girl's education. O'Brien (1997: 183) suggests that failure to ensure that girls are
educated as well as boys may undermine the educational project:

*The fundamental link between education and development is no longer
questioned...*It is now accepted that where equality is not achieved then
the education of males does not have the benefits expected.*

According to Clark and Clark, the inclusion of girls in education may be even
more important than that of boys:

*It is possible that the returns on investment in education of females are
considerably higher......*For example, family size tends to decline with the
education of females and this may be a positive social influence in
developing countries experiencing excessive rates of population growth.
(Clark and Clark, 1994)

Another barrier to education is the lack of school facilities. Lack of female
teachers, let alone indigenous teachers, is another potential barrier to girl's
education.

India

While the Indian government has expressed a strong commitment towards
education for all, India has one of the lowest female literacy rates in Asia, with
tribal women having the lowest rate of all. The government's commitment to
education is stated in its Constitution with an article promising 'free and
compulsory education for all children until they complete the age of 14'. The
National Policy on Education, which was updated in 1992, and the 1992 Program
of Action both reaffirmed the government's commitment to improving literacy
levels, by providing special attention to girls and children from Scheduled Tribes.

The literacy rate among the tribals in India, according to the 1991 census, stands
at just 29.60 per cent against the national average of 52.21 per cent. For tribal
women the literacy rate is only 18.19 per cent. For non-tribal women the national
average is 32.23 per cent. Most of the literates among the Scheduled Tribes
were literate only up to the primary level. Within the country, the level of literacy
among the tribals varied widely. At one end are tribal communities like the
Malapan Daram, Suhang, etc, in the South with hardly any literates among them,
whereas at the other end, there are communities like Lushai in Northeast
Himalaya with more than 40 per cent literacy. The lowest level of literacy among
the tribals was recorded in Andhra Pradesh (14.5 per cent) and the highest in
Mizoram (80 per cent). The lowest level of literacy among the females was found
in Rajasthan (4.1 per cent). It is obvious that the tribals need to accomplish

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something dramatic in the field of education, if they are to bridge the huge gap between themselves and the non-tribals.

Despite the government's Sarva Siksha Abhiyan (Educate All Movement), started in 1999, it has no education policy specially framed for indigenous peoples. Even in the Fifth Schedule states (nine states have Scheduled Areas), where Indian law provides special provisions for tribals, the respective state governments have failed to deliver a special education policy for tribal students. Though under the Sarva Siksha Abhiyan scheme, primary schools have been opened in every village, the standard of education remains pitiable.

Indigenous peoples are not taught in their mother tongue. Though the Fifth Schedule Area provision empowers the state government to make policy to impart education in the mother tongue of tribals, no such policy has yet been made in any state.

Conclusion

There has been a great deal of romanticism in the portrayal of tribal women in South Asia in anthropological literature. It is time that the role of tribal women is assessed for what it actually is, highlighting the impact on them of growing poverty and deprivation. This paper suggests a number of recommendations which could assist the Commonwealth in addressing the special interests and needs of indigenous peoples.

Recommendations:

1. Implementation of the provisions of the Constitutions (India and Bangladesh), seriously and sensitively.

2. Provision of strong protection to the tribals and indigenous customary laws.

3. Governments should fulfill all the commitments made to the tribals and indigenous peoples.

4. Make every effort to fulfill all the treaties and agreements made for the tribals and indigenous peoples.

5. Ensure participation of tribal and indigenous peoples at every level (decision-making, implementation and grass roots) in development programmes designed for them.

References:

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http://tribal.nic.in/index1.html

Shalini SCN, Renuka JJ, Gita Rana, Anjana Dua, Gunavati S.A., Francisca Barla & Rekha Chauhan, The Tribal Domestic Worker at the Cross Road, Indian Social Institute, October 1993.


VIOLATION OF FOREST RIGHTS ACT 2006 IN INDIA

- Since 2008, cases against the Forest Rights Act have been running in the Supreme Court. From 2008 up to 2016 the Central government played its constitutional role and defended this crucial law before the Court. From 2017 onwards, for no reason, the Central government’s counsels in the case did not make a single statement in defense of the law. We had raised this matter as early as February 4th. As a result, the petitioners’ view
prevailed and on February 13th the Court passed an order to evict lakhs of families solely on the ground that they were unable to prove their claim under the law. After a nationwide uproar, government rushed back to Court and managed to persuade the Court to put this order "on hold." The next hearing in this matter is on July 24th. **It is a matter of extreme concern to us and to the crores of forest dwellers of this country that government has not made a single statement in public on this matter after February 28th. We fear that your government is again planning to try to sabotage the Forest Rights Act by remaining silent and thus allow for a mass eviction once again.**

- On March 7th, the Ministry of Environment and Forests sent a "proposal" for amendments to the Indian Forest Act, 1927, to all State governments. If this proposal becomes law, forest officials will acquire extraordinary powers that no other agency - including the security forces in disturbed areas - has ever had in the history of this country. Forest officials will be able to end people's rights merely by paying cash compensation (s. 22A(2), s.30(b)); to use fire arms against tribals and forest dwellers with impunity (s.66(2)); to take confessions from accused and have them be admissible as evidence in court (a provision that does not exist in any other law) (s.64C); to shut down people's rights in entire forests for flimsy reasons such as "willfully causing fires" (s.26(3)); to end shifting cultivation entirely; and so on. **If these proposals become law they will be the single biggest attack on this country's tribals and forest dwellers since the first British Forest Act in 1865. Your government will have committed a historic atrocity on the crores of tribals and forest dwellers in this country.**

- In 2016, when the Compensatory Afforestation Fund Act was passed by your government, it did not even contain a mention of forest rights. The Rules framed under the Act - contrary to assurances to Parliament - also allow forest officials to override tribals and forest dwellers and plant trees on their lands. This has already led to atrocities against tribals and violence, including most recently in Telengana and Maharashtra. **Compensatory afforestation money is being wasted, siphoned off by corrupt officials, used as a pretext for evicting tribals and seizing their lands, and spent on buildings and guns when by rights it should belong to the country's forest communities.**

- When the Mines and Minerals (Regulation and Development) Act was amended in 2015 and 2016, much fanfare was made of how a "mineral development fund" would be set up for the development of mining affected areas and communities. As of December 2018 more than Rs. 22,800 crore had been collected by state governments in these funds, but only Rs. 5,529 crore - less than a quarter of the total - had been spent. **We call upon the**
Central government to investigate and reveal where the remaining 17,271 crores is. This is a further injustice on the country's tribals.

In this context we call upon the Central government to:

- Actively defend the Forest Rights Act in the Supreme Court, and place before the Court the correct legal position, under which evictions only for the inability to prove a claim are not justified in law and in any case are not related to the case before the Court;

- Immediately withdraw the proposed amendments to the Indian Forest Act and instead amend that law and other forest laws to bring them into accordance with the Forest Rights Act and to prosecute officials who violate forest rights;

- Ensure that money collected in the name of compensatory afforestation is only spent with the consent of affected gram sabhas and subject to plans prepared by them rather than by bureaucrats.

- Announce a transparent audit of expenditure under the District Mineral Funds and take action against any officials or agencies who have diverted money in these funds, and alter the rules under this fund to ensure that any expenditure is subject to the consent of gram sabhas and is decided by bodies with representation from tribals and other affected communities.

Is it the country's tribals and forest dwellers? Consider what some of the amendments say:

- Forest officials can use firearms to "secure forest produce" or for even more frivolous reasons; and if their firing is even "purported" to be done under the law, they cannot be prosecuted; this is the same provision as in the Armed Forces (Special Powers) Act (proposed new section 66(2))

- The legal rights of tribals and forest dwellers can simply be taken away by paying arbitrary cash payments and people can be forced to relocate (22A(2))

- Forest officials can inflict British-style collective punishment on all rights holders if they feel "fires are being caused willfully" (26(3))
- Forest officials can simply deny all rights - if they feel enough forest is "left over" - by declaring any area a "conservation reserve" (30(b))
- If one 'participates' in any of the sham participatory schemes under the Forest Department, one cannot claim legal rights (29(3))

The amendments also provide for "production" forests (34C), for ending shifting cultivation entirely (despite it being both more ecologically friendly and socially equitable), and so on.

The Union Government failed to present its lawyers in defence of the Forest Rights Act on February 13, leading a three-judge bench of Arun Mishra, Navin Sinha and Indira Banerjee to pass orders giving states till July 27 to evict tribals whose claims had been rejected and submit a report on it to the Supreme Court. The written order was released on February 20, 2019. The court said that the state governments would "ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court." The next date of hearing is set for July 27 – the effective date by when states would have to evict tribals to comply with the court orders.

The total number of rejected claims from 16 states that have reported rejection rates so far to the apex court add up to 1,127,446 tribal and other forest-dwelling households shows an analysis of the court order. Several other states that have not provided details to court have been asked to do so. Once they follow suit these numbers are likely to swell. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (FRA) which was passed during the Congress-led United Progressive Alliance's first tenure, requires the government to hand back traditional forestlands to tribals and other forest-dwellers against laid down criteria. The Act, passed in 2006, has seen opposition from within ranks of forest officials as well as so called...some wildlife groups and naturalists. This, combined with the fact that at the ground level it is the forest bureaucracy that has to administer the law has made the implementation difficult and tardy.

CONCERN:
Already over 56% of the Scheduled Tribes are displaced due to development projects and forest conservation plans. Now, this order makes adivasis into miserable situation. Historically, whole forest and natural resources were protected and conserved by the tribal people. Forest Department that was formed in 1862 began a new history use of timber, the Forest Act of 1864 curtailed rights of local people, then the Indian Forest Act 1927, and further the Wild Life (Protection) Act (1972) are forced for migration pushed tribals into starvation. In the name of environment conservation, how can the indigenous people who
have living historically with nature as their mother can be displaced? This eviction order should not have made and the Supreme Court needs to consult the adivasi leaders and the concern tribal department, because it is about millions of people who are true citizens of this country. It is question of “Right to Life as per Article 21 of the Constitution”.

POINTS FOR ACTION:

- We need to understand the background of this judgement dated 20.2.2019 of the Hon’ble Supreme Court on eviction of tribal people before 27th July, which is a violation of fundamental rights of the Scheduled Tribes, and it is because the Union Government failed to defend a law protecting our peoples’ basic rights.

- We need to educate the public about the traditional rights of adivasis and take up this case to the larger population of Scheduled Tribes of our country to utilise legal matters under PESA 1996, FRA 2006, POA Amendment Act 2016, Chapter 3rd of Constitution for safeguarding rights of the forest based tribal communities.

- We need to meet and explain the Union Minister Shri Jual Oram of Ministry of Tribal Affairs (MOTA) and advocate collectively for bringing an Amendment as Ordinance to ensure right to life, livelihoods of the Scheduled Tribes of India.

- We also need to take this subject to the decision-makers, political parties, MPs and Ministers to prepare for new legislation to protect and safeguard rights of the Scheduled Tribes.

TRFTLRRA 2013 land law

SLP 8453/2017

Petition(s) for Special Leave to Appeal (C).......CC 8453/2017
(Arising out of impugned final judgment and order dated 29-06-2016 in CWP No. 12720/2016 passed by the High Court of Punjab & Haryana at Chandigarh)

STATE OF HARYANA AND ORS. Petitioner(s)

VERSUS

M/S G.D. GOENKA TOURISM CORPORATION LIMITED AND ANR.

Respondent(s)

(WITH APPLN.(S) FOR CONDONATION OF DELAY IN FILING ON IA 1/2017
AND FOR CONDONATION OF DELAY IN REFILING ON IA 2/2017)

WITH
Taking all this into consideration, we are of the opinion that it would be appropriate if in the interim and pending a final decision on making a reference (if at all) to a larger Bench, the High Courts be requested not to deal with any cases relating to the interpretation of or concerning Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition.

The Secretary General will urgently communicate this order to the Registrar General of every High Court so that our request is complied with. In so far as cases pending in this Court are concerned.