

**United Nations Commission on Human Rights  
Sub-commission on Prevention of Discrimination and Protection of Minorities  
Working Group on Indigenous Populations  
Seventeenth Session, 26-30 July 1999**

**Agenda Item 5 on "Indigenous Peoples and their Relationship to Land"**

Statement by Shimreichon Luithui on behalf of the All India Coordinating Forum of the Adivasi/Indigenous Peoples

Distinguished Madame Chairperson, distinguished members of the Working Group, indigenous brothers and sisters, ladies and gentlemen.

On behalf of the All India Coordinating Forum of the Adivasi/Indigenous Peoples I would like to draw your kind attention to two concrete cases which illustrate the problems the indigenous peoples of India - known as Adivasis or, officially Scheduled Tribes - are facing today regarding their rights to their land and resources.

These problems have their roots in the fact that although there exist seemingly far reaching legislations to safeguard the rights of indigenous peoples to their land, there is an enormous gap between the statute books and the ground reality. Most of the legislations have remained gathering dust in the various state offices. Any attempt to get them implemented have been either made very difficult by the state machineries, or the progressive legislations have been bypassed by the state itself. For instance the Kerala Scheduled Tribes (Restriction on transfer of Lands and Restoration of Alienated Lands) Act 1975, which provides for restoration of alienated land to the indigenous peoples was not implemented. Alienation of indigenous peoples' land to non-indigenous people continued. It was only when the government was faced with the possibility of contempt of court proceedings, directing it to dispose of the applications pending for restoration of the alienated lands, the Revenue Divisional Officer processed over 8,000 applications in 1993. But the Revenue Divisional Officer rejected over 40% of the applications. And amongst the number of orders issued for restoration very insignificant actual restorations took place. In the meantime, the state instead of fully implementing the court order passed an amendment bill to the Act in 1996. Fortunately this bill could not become an Act, because the President of India refused to give his assent. However, just recently, on February 1999, the Kerala State Government found a way to circumvent the obligations of getting the President's approval by enacting a Bill which comes under the state subject as opposed to the earlier bill which was under the union list. This new bill called the "Kerala Restriction on Transfer by and Restoration of Lands to Scheduled Tribes Bill 1999" de facto denies the restoration of most of the alienated lands to the indigenous peoples which the 1975 Act provided for.

The second case I would like to briefly present to you Madame Chair, is the situation of the indigenous peoples of the Andaman islands in the Bay of Bengal. Since the 1960s thousands of settlers were brought in to the Andaman islands from mainland India. Around the same time large scale logging started and it has remained the

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backbone of the colonialist economy of the Andaman islands. Consequently, the indigenous peoples such as the Ongees and Jarawas are pushed in from all sides.



In this case again we find a glaring discrepancy between the present official policy of the government regarding the protection of the indigenous peoples' rights of the Andaman islands and the ground reality. Although a reserve has been created to protect the remaining portion of the ancestral domain of the Jarawas, government sponsored encroachment in the form of a trunk road and illegal land grabbing and logging is taking place, posing increasing pressure to the Jarawas. This in spite of the determined resistance and defense of their lands by the Jarawas, clearly signalling that they want to be left alone.

In October 1997 some Jarawas have for unknown reasons for the first time voluntarily made contact with the settlers. These visits continue, but the government has so far not responded very sensitively to the Jarawas' needs. In fact, a public interest litigation has been filed at the court of Calcutta requesting that the Jarawas shall be resettled to another island in order to bring them into the folds of civilization. Under the same pretext the Ongee indigenous people of Little Andaman has been resettled starting in 1976 already. As a consequence of decades of contact and resettlement later on, they have steadily declined in numbers and are now with 98 people on the brink of extinction. While the officially stated goal of the government policy towards the indigenous peoples of the Andaman Islands is humanitarian in nature - granting access to health services, education etc. - one cannot but conclude that the real motivation is simply to get access and control over the land and resources of the indigenous peoples of Andaman. Large parts of the Ongee's ancestral lands have been denotified as tribal reserves and are at present being logged. The suggested wholesome resettlement of the Jarawas obviously shall serve the same purpose.

The All India Coordinating Forum of the Adivasi/Indigenous Peoples urges the Government of India to act strongly and with determination not only with respect to the indigenous peoples of Kerala and the Andaman Islands. But to recognize, restore and protect the indigenous peoples' rights to land and resources all over India.