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Research Article

TRIBAL LAND CONFLICTS AND STATE FORESTRY IN ODISHA: A HISTORICAL STUDY

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Abstract

The history of human existence and civilizations are intertwined with forests and trees. Forests are crucial for the goods and services they provide, which people all over the world depend on. Strategies to enhance the contributions of the world's forests to social development, livelihoods and poverty eradication are vital at a time when unsustainable practices and economic crises continue to threaten healthy forests and the people who depend upon them. The survival of tribal communities critically depends on land and forest resources. For historical and ecological reasons, most tribal people inhabit the forest and highly inaccessible regions of the state. These communities practise various customary land tenure systems, which have often been modified by state policies and legislation. The clan-based land tenure system was based on customary rights over land, trees and forest. The land use and tenure systems vary from tribe to tribe, as reflected in the practice and terraced cultivation. The relationship between tribal people and forest resources has been symbiotic in nature. The life-way processes of Odisha's tribal people are reflected in their economy, religion, polity and social institutions, which cannot be understood without understanding various aspects of the forest surrounding them.

Key Words: Forest Policies; Social Protests; Forest Based Livelihoods; Forest Acts & Management Strategies; Wildlife & Biodiversity Conservation; Tribal Land; Diversion of Forests Land; Livelihood Development; Forest Resources; Tribal & Forest interface and Development of Alternate Livelihood.

Introduction

Over 1.6 billion people's livelihoods depend on forests. Trade in forest products was estimated at \$327 billion in 2004. 80 percent of the world's forests are publicly owned, but ownership and management of forests by communities, individuals and private companies is on the rise. 30 percent of forests are used for production of wood and non-wood products. Forests are home to 300 million people around the world. The annual value of wood removed from forests is estimated to be more than \$100 billion. (Source: UN Report-Fact Sheet; People and Forest)

During the British rule in India, tribal dominated areas were categorized as "excluded" and "Partially excluded", because the British administration felt that the tribal communities need to be dealt through an administrative setup separate from the rest of the country. Tribal parts of Odisha inherited their land and forest administration systems from Madras Presidency (South Odisha), Central Provinces (Parts of western Odisha), Bengal Province (coastal Odisha) as well as from many princely states such as Mayurbhanj, Keonjhar, Bamra, Bonai, Boudh,

Kalahandi, and Rairakhol etc. The extension of state power to remote tribal areas was an uneven process, based on conflicts and conquests. During Pre-British period most tribal areas were comparatively autonomous with high degree of political and economic independence in tracts on the borders and peripheries of kingdoms. The British period led to increased incursion of state and administration into tribal areas, and such incursion was often resisted violently. Many of these resistances were put down brutally with support of the British army. For example, in the context of Kondhs, the local chiefs and rajahs, who were once dependent on tribal goodwill and compliance for the legitimacy of their rule, were able to seek their legitimacy from the British backing and military power. The Rajahs became the figureheads of British rule and 'sucked the blood' of their kondh subjects for their own aggrandizement.

The need for revenue by both the British and the princely states was often the most important motivation behind

increasing administrative control of tribal areas. Land survey and settlements and cash land revenue monetized the economy and led to large scale indebtedness amongst tribal societies. The rulers also preferred to settle lands in favour of non-tribals who carried out settled cultivation rather than shifting cultivation on hills. Slowly, non-tribal tenure holders in many areas replaced tribal intermediary tenure holders. In the Gangpur Princely State, most gaontias (intermediary tenure holders responsible for rent collection) were tribals in the early 1800s, but by 1890s there was a greater preference for non-tribal gaontias from Agharia and teli castes. Influx of non-tribal peasantry into tribal areas was actively encouraged and facilitated by the rulers, and opposition of tribals to this influx was suppressed by force wherever required. In 1882, the policy of the Kalahandi King to settle Kultas, an agricultural caste, in tribal areas led to a Kondh rebellion which was suppressed with great brutality with the support of the British (Kalahandi District Gazetteer, 1980). The policy of encouraging Oriya cultivators in tribal areas had led to a rebellion by 20,000 Juangs in Dhenkanal and Keonjhar princely states in 1868, again bloodily suppressed with the help of British. The process of loss of territory by tribals was aided by creation of intermediary tenure holders who were mostly non-tribals and had effective administrative control of the area under their jurisdiction. The influx of non-tribal peasantry facilitated by the rulers led to transfer of land from tribals to non-tribals and in plain areas converted tribals into landless laborers or pushed them onto marginal lands. The nontribal was interested in plain cultivable lands, leading to large-scale alienation of such lands.

Scenario in pre-independent Odisha

The increasing importance of forest (timber) based revenue led the British rulers as well as the Princely estates to reserve or notify more and more areas as forests under various forest laws and rules, imposing restrictions upon the tribals using these forests. Restrictions on shifting cultivation on areas designated as forests were one of the key strategies for increasing the commercial value of these lands (Guha and Gadgil, 1989). These restrictions were often instrumental in sparking tribal unrests. The takeover of forested lands was based on non-recognition of customary tribal land rights over these areas by the state. Clan and lineage territories were not recognized in the forest settlement operations. Often such forest notifications were carried out without proper survey and settlement of even recognized rights of permanent cultivation. For example, in Jeypore Zemindari, an area of 1615 sq. miles was declared as Reserved Lands and Protected Land by 1939, as these categories didn't require the estate to do detailed settlement of rights before notification. In these Reserved and Protected land, clearing of land for shifting cultivation was

expressly forbidden. No survey and settlements of pre-existing rights were taken up in the Reserved and Protected Land. Similar restrictions on shifting cultivation were imposed in land notified as forests in all other areas of Odisha.

Land became to be conceived as either private or state property, rather than in terms of a territory that a village held in common. Thus tribals faced loss of land on two accounts in the pre independence era – the lowlands and paddy lands held under private ownership were lost due to influx of non-tribals, non-recognition of rights, indebtedness and inability to pay land revenue. The shifting cultivation, swidden, was lost due to notification of this land as forest or Government land. Both these processes were aided by the expansion of state and markets into the tribal areas (Guha, 1994). These trends have continued even after independence. However, the diverse land administration in pre-independence era still provided some space for customary rights on land of tribals, either due to the land tenure systems or due to poor ability of state apparatus to penetrate remote areas. Most of the land administration systems in tribal areas left the control of the village land in hands of the local intermediary tenure holder, which meant that the village lands were administered within the community or by the local intermediary tenure holders, who were often at liberty to allow tenants to convert wastelands to cultivated land. In most areas, swidden cultivation was either not taxed or rents were nominal charged by the rulers. The former feudatory chiefs of Bonai and Keonjhar had realized plough tax in cash and some animals as tribute from the whole village of Bhuiyan swidden cultivators. In Kalahandi Dongrias, during the pre-independence settlement, the cultivation area of each Kondh raiyat (peasant) was noted in terms of seed capacity and rent fixed in consultation with or rather persuasion of the raiyat. In Rayagada and Gunupur areas, both paddy land and dangars (shifting cultivation land) of the Kondhs and other tribes were assessed by the Jeypore Zemindary. Though none of the Forest Acts (Indian Forest Act, 1927 and Madras Forest Act, 1885) explicitly allowed for shifting cultivation, yet forest rules framed by some of the princely estates provided for shifting cultivation. For example, Jeypore Forest Rules allowed shifting cultivation on forest category called Unreserved Land only after obtaining express permission from the Collector. Among the feudatory states, shifting cultivation was permitted in regular manner in the Juangpirh of Keonjhar and in tracts of Bamra (current Deogarh district), Pallahara (currently part of Angul district), Bonai (part of current Sundergarh district), Ranpur (Part of Nayagarh district) and Kalahandi where a plough tax or house tax was levied on the shifting cultivators. In Bamra shifting cultivation was being assessed every year.

Table 1: Important Laws applicable to different types of land

Category	Applicable laws
Forest Land Including revenue forests	<ul style="list-style-type: none"> → Orissa Forest Act 1972 → Forest Conservation Act 1980 → Orissa Forest (Grazing of Cattle) Rules 1980, Sections 5 and 6
Non-Forest State owned land	<ul style="list-style-type: none"> → Orissa Prevention of Land Encroachment Act 1972 → Orissa Prevention of Land Encroachment Rules 1985 → Orissa Government Land Settlement Act, 1962 → Orissa Government Land Settlement Rules 1983
<i>Patta</i> land	<ul style="list-style-type: none"> → Orissa Survey and Settlement Act 1958 → Orissa Land Reforms Act 1960 → Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribe) Regulation 1956 (Only for Scheduled areas)

Scenario in post-independent Odisha

The period immediately after independence was a time of flux and change for the land and forest governance in Odisha, with the princely states and ex-Zemindary areas being merged into Odisha, and the emergence of uniform administration systems for the whole state. For land administration this implied moving from an intermediary based system to a raiyatwari system all over the state, following the principle of “tillers as owners”. This was sought to be done through abolishing intermediary tenure holders. This was accompanied by laws to regulate concentration of landholding by imposing a ceiling on the land in possession.

The Orissa Estates Abolition Act, 1952, provided for abolition of all intermediary tenure holders, and vested all land rights in the State. However, it also allowed the intermediary tenure holders to hold up to 33 standard acres of land for their personal cultivation. This has had major implications in tribal dominated tracts with non-tribal intermediary tenure holders, who could often evict longstanding tribal tenants and get the land settled in their own names. This process was facilitated by the absence of proper land records in many of these areas. The Orissa Land reforms Act, 1960, provided for permanent, heritable and alienable rights on land to the tiller. It initially continued with the ceiling of 33 standard acres, and then reduced it to 20 standard acres in 1965 and 10 standard acres in 1972. However, the period between 1960 and 1972 provided enough scope to the large landowners to transfer the land to the relatives while maintaining de-facto control and thus could circumvent the land ceiling provisions. This high ceiling limit made it possible to evict tenants on a large scale. Tenancy reforms have always remained weak in the state, even though Orissa Land reforms Act, 1960, provides

full ownership rights to tenants on the land in their possession, and bans tenancy. The tenants have found it very difficult to prove their possession of land as large landholders resort to rotating informal tenants among their holdings and periodically evicting them to escape the provisions of the law. The major effect of the tenancy laws has been to drive tenancy marginalised, making it more insecure and exploitative. For Forest administration, a uniform legal governance system was only achieved in 1972 with the passage of Orissa Forest Act, 1972 (Guha, 1997). The process included the incorporation of ex-princely state forests, Zamindary forests and forests under the Madras Forest Act, 1882 (Table 1).

The administration of land in the State is affected by Acts, which govern private land and agrarian relationship such as Orissa Land Reforms Act, 1960. The categorization of land and settlement of rights is also affected by Orissa Survey and Settlement Act, 1958 and Orissa Government Land Settlement Act, 1962. Apart from these, as large extents of the land in tribal areas are categorized as forests, the laws relating to forests also have major impact on tribal people’s access to land. The most important are Orissa Forest Act, 1972 and Forest Conservation Act, 1980. Forest land included both forests under the control of Forest Department (40% of the forest area) and forests under the control of Revenue Department (60% of the forest area) (Table 1).

Subsistence Economies of Tribals

Tribal economies are mostly subsistence economies whose survival is closely linked to land and natural resources, including forest products. Estimates from Odisha indicate that over 30 per cent of land in Odisha comprises of commons such as forests (Government of Odisha, 2007) and between twenty to fifty percent of annual income of

tribal households comes from Non-Timber Forest Products (NTFPs). More so in Odisha, tribal areas are coterminous with mineral deposits and have thus attracted considerable attention by the private sector in recent years, both for extraction and industrial development. All this together with the increasing threat of naxalite violence in these areas has made focus on tribal development a policy imperative. Historically, tribals in Odisha have always been far removed from the economic mainstream, which according to some is by default not design. While coastal Odisha benefited from colonial development, the tribal hinterland was used by colonizers mostly as an extracting ground for forest produce like timber. De Haan (2004) suggests that the institutions that emerged at the time, particularly in the time of the British, were driven by a priority of maximizing state revenue. Current state policies, De Haan argues, are still reflective of the same objective. Even though Odisha has devolved the procurement and marketing of 69 NTFFPs to gram sabhas, the government retains control over high revenue earning products (e.g. kendu leaves), which are prone to commercial exploitation. Further, the lack of capacity of gram sabhas (village assemblies) in these areas has meant that even for NTFFPs over which communities have supposed control, middlemen benefit more than tribal people. Tribals who do sell on their own, sell in a buyers' market with no control over prices (Saxena, 1999). On the other hand deforestation continues unabated. It is estimated that Odisha has lost more than a quarter of its forests in the last 25 years resulting in considerable decline in the proportion of tribal income contributed to by NTFFPs. Besides their tenuous hold over NTFFPs, another major reason for tribal poverty is the classification of huge tracts of tribal forest land as state property. Although living in these forests for generations, given poor documentation of customary rights, most tribals find it difficult to convert their *de facto* access to forestland and resources to ownership (Johansson, M. (1996). Legislation to prevent sale of tribal land to non-tribals too has been largely ineffective as witnessed in the large number of cases involving land grabbing by non-tribal through marriage or through fraud.

Tribal indebtedness is another important reason for lands being handed over to moneylenders. Studies estimate that more than 50 per cent of tribal land in Odisha has been lost to non tribals over a period of 25-30 years through indebtedness, mortgage and forcible possession. Worse, the process of tribal alienation, i.e. tribals gradually losing their access to traditional commons has accelerated in recent years. While studies vary with regard to the impact of displacement in Odisha, mostly on account of setting up of mineral-based industries, all agree that of those displaced a disproportionate number are tribals. The state also has a controversial track record of resettlement and rehabilitation (Mishra, 2007). Most activists and academics working on tribal issues think that it is alienation from these communal

resources, which forms the fulcrum of tribal angst and revolt. Alienation together with reduced income from NTFFPs, stagnant agriculture and limited opportunities for non-farm self-employment, push tribal households into a cycle of high interest debt from private moneylenders resulting in food insecurity and forced migration. The cycle is usually linked to the agricultural season, with most tribals migrating in the months of March-April after harvest to repay the loans taken during monsoons. A majority ends up working as manual labour employed in construction sites or as domestic workers.

Policy interventions and implications

There are several policies in place to secure the rights of tribals to their land, natural resources and livelihoods; but there is a slip between the cup and the lip. One of the most important pieces of legislation in the last decade has been PESA. It is unique in being in consonance with customary laws, focusing more on tribal hamlets based on culture rather than revenue villages. Several steps have been taken to operationalise PESA – state amendments and rules have been passed and monitoring is underway. However field studies in Odisha reveal that many people on the ground are not even aware of the legislation (Upadhyay, 2007). Similarly, the Forest Rights Act is a significant step in the direction towards recognising the pre-eminent rights of tribals on forest land, but it doesn't yet harmonise well with forestry/wild life/environmental laws (Action Aid, 2007). In most cases, the latter take precedence over the former and tribals, formerly communal owners, end up as 'encroachers' on protected forests, dependent on the mercy of rent-seeking revenue inspectors.

The Backward Regions Grant Fund (BRGF) is another programme that can positively impact tribal areas in Odisha. A centrally sponsored scheme, the BRGF is designed to redress regional imbalances in development. The fund provides financial resources for supplementing and converging existing developmental inflows into 250 identified districts in 27 states and gives panchayati raj institutions (PRIs or local governments) the discretion to plan for and use these funds. The programme seeks to truly empower the PRIs by making untied funds available to them and has been quite successful in bringing to national focus, decentralized planning.

Conclusion

Thus, land and land-based resources are central to the livelihoods of tribal people; they have poor access to land and forests. Most tribal communities in Odisha have strong cultural and social relationship with land, with many practicing communal ownership of land, especially swidden land. During the last two centuries, tribal communities have been affected by land loss through alienation of plain lands to non tribals and the swidden lands to the State, which has categorized these areas as forest land or revenue lands. The loss of private landholdings by tribals has always remained

a cause of concern that manifests in the the number of laws formulated by the State both during pre-independence and post-colonial days to check land alienation. These laws suffered from many shortcomings and were unable to check transfer of land from tribals to non-tribals. Further, as shown in this study, the poor access of tribal land is not only the outcome of land alienation to non-tribals, but is also the outcome of land and forest policies followed by the State. In Scheduled Areas (tribal majority areas) of Odisha, three-fourth of land is owned by the State, and in districts like Gajapati and Kondhmal, less than 10% land is owned by tribals. At the same time, the household land ownership among tribal households is extremely low at 1.12 standard acres per household. The situation of marginal ST households, which constitute more than 50% of tribal land owners is even more precarious, with their average landholding working out to only 0.44 standard acres. Given that land is most important source of tribal livelihoods, the extremely low holdings could be an important factor behind their extreme poverty as a social group. The paradox of abundant state owned land with the meagre holdings of tribals is sought to be understood through this study. The study brings out the need for a paradigm change in tribal development in Odisha, with access and rights over land and land based resources as the central focus of development strategy in tribal areas.

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