

SESSION 3

LAND ALIENATION, DISPLACEMENT AND FORCED MIGRATION

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Objectives

1. To understand the main cause of land alienation in India.
2. To develop insights about development-induced displacement and problems of rehabilitation and resettlement among tribal communities.
3. To examine the factors leading to forced migration in tribal areas.
4. To provide a critical appraisal on mining induced displacement and resettlement through case study.

Outline

- Land and Social Hierarchy
- Constitutional Provisions for Development of STs
- Right to Land
- Land Acquisition Act, 1894: 'Eminent domain' and 'Public purpose'
- Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013
- The Scheduled Tribes and Other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006
- Tribal Land Alienation
- Process of Involuntary Displacement
- Forced Migration for Economic Survival
- A Case Study on Vedanta Alumina Ltd (VAL), Kalahandi District, Odisha
- Conclusion

Land and Social Hierarchy

- ▶ Land is not merely an important economic asset; its ownership is also socially valued, sought and denied.
- ▶ In rural societies, ownership of land is co-terminus with social status.
- ▶ Its unequal distribution reflects both prevailing social stratification and also helps in maintaining the hierarchical structure of the society.
- ▶ In contrast, fair distribution of land strikes directly at the roots of an unequal social order and skewed power relations, and frees the marginalized from the clutches of perpetual bondage, for want of a sustainable livelihood.
- ▶ The pattern of land distribution in India, therefore, reflects the existing socio-economic hierarchy.

- ▶ Over 80 per cent of the ST population works in the primary sector, with 45% of them being cultivators and 37% being agricultural labourers.
- ▶ Land, thus represents the most important source of livelihood, emotional attachment and social stability in tribal communities.
- ▶ It is critical for cultivation, horticulture, forestry, and animal husbandry.
- ▶ As land is a State subject, various States have enacted laws to prevent land alienation of tribal land.

Pattern of Land Ownership

- SCs and STs in India are considered to be the most marginalized and vulnerable groups.
- The NSS data(NSSO 2006, 59th round) reveals that: vast majority of SC households(80%) are marginal farmers and over 11% are landless.
- In case of the STs, the marginal farmer households constitute 63.1%.
- Tribal land alienation remains a continuing problem and only in about 50% of the cases the tribals get a favourable verdict.

Draft National Tribal Policy

- ▶ The phenomenon of land alienation is referred to as the practice of purchasing or forcefully acquiring the agriculture land of the tribes by the mainland people.
- ▶ The Draft National Tribal policy notes that 'alienation of tribal land is the single most cause of pauperization of tribals, rendering their vulnerable economic situation more precarious.
- ▶ The lands lost are usually the most productive, leaving the tribals to cultivate poor quality land that is extremely vulnerable to the vagaries of weather and rainfall.
- ▶ The total effect of land transfers has been devastating to the fragile tribal economy.
- ▶ The massive inward migration of non-tribals has also changed the ownership of land in the Scheduled Areas to the disadvantage of STs.

Objectives of Draft National Tribal Policy (w.r.t. Regulatory Protection)

- Preventing alienation of land owned by STs and restoring possession of wrongfully alienated lands;
- Protection and vesting of rights of STs on forest lands and other forest rights including ownership over MFP, minerals and water bodies through appropriate legislations and conversion of all forest villages into revenue villages;
- Providing a legislative frame for rehabilitation and resettlement in order to minimize displacement, ensure that affected persons are partners in the growth in the zone of influence, provide for compensation of social and opportunity cost in addition to market value of the land and rights over CPRs- the concept of net present value (NPV);
- Empowerment of tribal communities to promote self-governance and self-rule as per the provisions and spirit of PESA Act, 1996.

Alienation of Tribal land: Tenurial Security

Recommendations

- The State anti-alienation land laws will be subjected to scrutiny and amendments will be made to remove lacunae and shortcomings, make them foolproof and stringent and bring them in conformity with the PESA Act.
- The Indian Registration Act, which is a Central Act, is to be amended to prevent the registration of transfer of specified lands from tribals to non-tribals in the tribal areas.
- The relevant documents will require to be accompanied by an affidavit of the transferee indicating whether or not the transferee is a member of a ST, or a registered society composed solely of members of STs.

- Special fast-track courts will be established in the Scheduled Areas to deal with cases of tribal land alienation.
- Competent legal aid will be made available timely to tribals at all stages of litigation.
- The judiciary will be asked to consider adopting a time-limit, say 2 or 3 years, for disposal of a case of tribal land-alienation.
- Land records in the Scheduled Areas will be computerized and updated.
- Wherever land is being distributed to tribals or vested with them, it will be recorded in the joint names of both the spouses, or in the name of the woman alone.
- Efforts will be made to allocate at least one hectare of land to each landless family of STs.

- The Standing Committee on Rural Development(2019-20) noted that the work under DILRMP is being completed at a slow pace.
- Some States like Arunachal Pradesh, Meghalaya, Nagaland and Manipur(Partial) are not able to implement some of the components of DI-LRMP due to community ownership of lands and non-availability of land records with the respective governments.

Constitutional provisions for Development of STs

- ▶ Special provisions have been made in the Constitution of India for the tribals under Articles 24, 244A, 275(1), 338A, 339 and 342, recommending positive discrimination and affirmative action on the regulatory and developmental fronts.
- ▶ Article 46 of the Constitution enjoins upon the States the obligation to promote the interests of SCs & STs and to protect them from social injustice and all forms of exploitation.
- ▶ The State Governments have accepted the policy of prohibiting the transfer of land from tribals to non-tribals and for restoration of alienated tribal lands to them.

▶ However, these special provisions have so far failed to bring about any positive gains to the tribal population.

▶ The oppression of the tribal people by the land owning dominant castes and rural elites, resulted in unrest and revolt.

▶ For instance, the Santhal rebellion, the revolt by Birsa Bhagwan, the Praja Mandal Movement, the Tana Bhagat Movement, the Naxalbari Movement, the Jharkhand Movement etc., are all attempts by the tribal people to shake off the yoke of exploitation.

Extent of Land Alienation and Displacement

► Land, the life support system of tribals, continues to be passed from tribes to non-tribes through such means as fraudulent transfers, forcible eviction, mortgages, leases and encroachments despite legislation restricting the alienation of lands from tribes to non-tribes.

► As per the information available with the MoRD, in January 1999, 465,000 cases of alienation of tribal land, covering an area of 917,000 acres, were registered in Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Tripura(Planning Commission 2001:39).

- ▶ Displacement is the other important factor accounting for the loss of control and ownership over land and forest by the tribals.
- ▶ Displacement has occurred primarily because of large scale projects like industries, irrigations, and hydraulic projects and mining.
- ▶ This has resulted in the displacement of a total of 21.3 million people in the period 1951-90 in Andhra Pradesh, Bihar, Gujarat, Maharashtra, Madhya Pradesh, Rajasthan and Odisha.
- ▶ Of this number, 8.54 million i.e. 40% were tribals.

- ▶ The large-scale alienation of land from tribes to non-tribes and the massive displacement of tribal people largely explain why the percentage of tribal cultivators have declined from 68.15 in 1961 to 54.5 in 1991.
- ▶ Further, as much as 42.9% of the operational holdings of tribes belongs to the category of marginal farmers, which means that they hold less than 1 hectare(MoTA,2001:36).

Right to Land

- ▶ Right to property is today a Constitutional right (as distinct from a fundamental right).
- ▶ In 1956, When the Fourth Amendment was being made to take compensation for land acquisition out of judicial review, the tribal leader, Shri. Jaipal Singh had emphasized that ‘for the poor man’s sake compensation must be justifiable, for the right to approach the courts is the most effective guarantee against executive tyranny’.
- ▶ Today we see how the right to property being a legal right and not a fundamental right has worked as a disadvantage against displaced belonging to weaker sections, particularly against the tribals.

Land Acquisition Act, 1894: 'Eminent domain' and 'Public purpose'

▶ The Indian State has the power of 'Eminent Domain' which has been defined as 'The power to take private property for public use by state, following the payment of just compensation to the owner of the property'.

▶ The 'eminent domain' had three essential ingredients:

(i) power of the State to take over private land;

(ii) exercise of this power for public good (public purpose);

(iii) the State had to compensate those whose lands were acquired for public purpose

▶ Under the model of development and displacement, only land owners had a right to be compensated and others such as landless, who had no legal title were excluded and this disregard for segment of the population was 'because of the limited mandate imposed on the State by the eminent domain doctrine.

Eminent Domain or Free, Prior, and Informed Consent?

- ▶ The bargaining position of indigenous communities is weakened by invoking the principle of eminent domain(i.e. right of the state to acquire individual land for public purpose).
- ▶ While acquiring of land for actual public purposes(i.e. for the provision of what are public goods, such as infrastructure, defence, and the like) can be justified under eminent domain.
- ▶ *It is a moot point whether eminent domain can be invoked in the case of industrial enterprises?*

- The Indian Supreme Court, in the Samtha judgement, held that all mining activities in the tribal areas should be carried out through a cooperative of the indigenous peoples and private mining should not be allowed.
- At least 20% of the net income should be spent on education, health and communication, etc.
- But this judgement has been completely ignored in practice and eminent domain still holds ground in India.
- The Jharkhand government draft on resettlement policy, however makes a welcome break with eminent domain and invokes the process of 'free, prior' and informed consent for all activities likely to lead to displacement.

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013

- ▶ With the enactment of LARR Act, 2013, comprehensive resettlement has been legally mandated and people affected by the Project have been included.
- ▶ But till this new law came into being, much harm had been caused by the misuse of the concept of 'eminent domain'.

Forest laws

- ▶ Civil Society groups and activists have pointed out the manner in which the application of the Indian Forest Act, 1927 and the Land Acquisition Act, 1894 has caused marginalization and hardship to the adivasis.
- ▶ The Wild Life Protection Act, 1972, the Forest Conservation Act, 1980, the Tree Prevention Act and the Forest Policy, 1988, also affected tribal people.

Forest Rights Act, 2006

- ▶ The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is an important Act, as it has begun the process of recognizing their rights and will be the legal basis for computation of compensation in case of diversion of Forest for development projects.

- The FRA clearly defines that local communities have rights over forest land and resources irrespective of classification of forests- be it reserved forest, protected forests or village forests.
- Studies on implementation of FRA in the protected areas shows that the last one decade has seen serious and sometimes violent conflicts across all PAs, where local people have been or are being relocated or violently evicted without settlement of their rights as recognized under FRA(Fanari and Pathak, 2019).

▪ Based on empirical evidence on implementation of FRA in eight PAs which include:

- (1) Achanakmar Tiger Reserve(TR) in Chhattisgarh,
- (2) Kaziranga and Manas TRs in Assam,
- (3) Sundarban TR and Jaldapara National Park in West Bengal,
- (4) Similipal Tiger Reserve in Odisha,
- (5) Nagarhole Tiger Reserve in Karnataka
- (6) Wayanad wildlife sanctuary in Kerala

It reveals that whether it is recognition of IFRs, CFRs or declaration of CWHs, the state machinery, especially the Forest Department across India has shown no serious interest.

▪ The process of FRA implementation in the PAs are either non-existent or is fraught with irregularities and largely carried out to facilitate relocation (Fanari and Pathak, 2019).

Tribal Land Alienation

- Loss of tribal access to land or tribal land alienation happens through different routes and forms.
- Considering the conditions of STs, the Xaxa Committee(2014) in its report had identified the following routes or forms to tribal land alienation.
- Development induced displacement which cause tribal land alienation- large areas of land were gained by private parties or state in the name of development projects, with very less or modest benefit for the tribals.
- Common ownership lands or community lands of the STs are not recorded in their name during the survey and settlement process. These huge lands are recorded as government land. In many states, the tenancy laws only recognise individually owned registered land.

- For the settlement of expatriates and refugees, the state is acquiring land in tribal areas which resulted in tribal land alienation.
- Tribal land alienation, forced migration and displacement also happen due to the creation of national parks and sanctuaries in tribal regions.
- Benami transactions and illegal land transfers occurred owing to the numbness of revenue officials and department, manipulation of land records and permission granted to alienate tribal land in different times as per law and legal procedures. Different state government's laws are ameliorated from time to time to incorporate the provisions which facilitate land alienation.

MoRD, GoI estimated that in the year 2007-08 alone, for restoration of alienated land, 5.06 lakh cases were registered were filed in the Court, which covers 9.02 lakh acres.

As most of the land alienation cases were without any record, the above data from MoRD only reveals the proverbial tip of the iceberg regarding the circumstances of land alienation among the tribals.

State-wise Information on Alienation & Restoration of Tribal Lands(Area in acres)													
Sl. No.	State	No. of cases filed in the Court	Area	Cases Disposed by the Court	Area	Cases Rejected	Area	Cases Decided in favour of Tribal	Area	Cases in which land was restored to Tribals	Area	Cases Pending in Court	Area
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1	Andhra Pradesh	65,875	2,87,776	58,212	2,56,452	31,737	1,50,227	26,475	1,06,225	23,383	94,312	7,663	31,324
2	Assam	2,042	4,211	50	19	-	-	50	19	50	19	1,992	4,192
3	Bihar	86,291	1,04,893	76,518	95,151	31,884	49,730	44,634	45,424	44,634	45,421	9,773	9,742
4	Chhattisgarh	47,304	NR	46,807	NR	NR	NR	21,348	43,803	21,269	43,620	79	181
5	Gujarat	20,704	75,966	19,819	73,317	497	1,353	19,322	71,965	376	1,942	885	2,649
6	Jharkhand	5,382	4,002	1,362	NA	283	NA	1,079	860	1,079	860	4,020	NA
7	Karnataka	42,582	1,30,373	38,521	1,15,021	16,687	47,159	21,834	67,862	21,834	67,862	4,061	15,352
8	Madhya Pradesh	53,806	1,58,398	29,596	97,123	29,596	97,123	NR	NR	NR	NR	24,210	61,275
9	Maharashtra	45,634	NR	44,624	99,486	24,681	NR	19,943	99,486	19,943	99,486	1010	NR
10	Orissa	105,491	1,04,742	1,04,644	1,03,556	43,213	46,677	61,431	56,879	61,364	56,854	847	1,186
11	Rajasthan	2,084	6,615	1,257	3,978	53	187	187	587	187	587	1067	2,355
12	Tripura	29,112	25,441	9,040	7,269	20,043	18,131	9,040	7,269	8,945	7,165	95	104
	Total	506,307	9,02,417	4,30,450	8,51,372	1,98,674	4,10,587	2,25,343	5,00,376	2,03,064	4,18,128	55702	1,28,360
	Total in hectares		3,65,351		3,44,685		1,66,129		2,02,581		1,69,283		51,968

Source: Annual Report(2007-08), Govt. of India, Ministry of Rural Development, p.276.

Extent of Tribal Land Alienation in Different States of India

1. Andhra Pradesh

- In AP, the tribals' land were illicitly possessed by the non-tribals, in spite of the fact that 'the AP Scheduled Areas Land Transfer Regulation 1959', which was ameliorated by the regulation 1 of 1970, forbids transfer and sale of STs land to non-tribals in different Scheduled Areas.
- A tribal women, Karam Devudamma of Chinnabhimpalli of East Godavari district, on 2 September, 2008, filed a petition before the High Court of AP where she averred that the RDO bought the tribal land for building the Polavaram irrigation project and the petition was acknowledged by the High Court.
- The report substantiates the data that in Scheduled Areas of the state, 48% of lands were occupied by the non-tribals.

2.Assam

- In the state of Assam, the government has failed to arrest the alienation of tribal land.
- With the nexus among the revenue officials and the land-grabbers, the tribal lands have been either transferred or illegally occupied by the non-tribals.
- The All Assam Tribal Sangha mentions that till 2008, within the 47 tribal blocks of Assam, approx. 800,000 bighas of tribal land were illegally possessed by the non-tribals.
- Approximately, 325 bigha of tribal lands in Sonapur tribal area of Kamrup district are illicitly transferred on invaded by the non-tribals.
- The Dimoria Bhumi Suraksha Samiti, in a report, has indicated that many non-tribals have possessed STs' land.

3. Jharkhand

- In the state, there are two sets of acts against land alienation e.g. 'Santhal Pragana Tenancy Act', 1949 and the 'Chotanagpur Tenancy Act', 1908.
- But despite this anti-land alienation laws, tribal land alienation in Jharkhand is usual.
- As per MoRD Annual Report(2007-08), 5382 number of cases regarding tribal land alienation were registered before different courts in the state which involve an area of approx. 4,002 acres of land.
- The court has disposed a total number of 1,362 registered cases, among which 1,079 cases were settled in favour of the tribals.

- As of March 2007, approx., 5,500 tribal land alienation cases are pending in different courts of the state.
- The state govt. had allocated Rs. 50 lakh for providing financial help to the tribals to fight the legal battle for their land alienation cases.
- But, very less amount(approx. 10%) of the sanctioned budget has been spent for the last 6 years.
- Lawyers are not interested and are dis-inclined to take up tribal land alienation cases due to less assistance from government.
- For the last six years, as part of governments legal assistance, the lawyers who are fighting cases on behalf of the tribals were compensated just Rs. 5,000 per case.

4. Karnataka

- Due to the renewed industrial activity, and the formation of the contractual industries, land alienation in Karnataka took a different turn after 1960s.
- The pressure on land has increased due to raising industrial activity supported by foreign capital which forced the non-tribal industrialists and other rich persons from the mainland to look for alternate land in forest and tribal areas.
- This industrial process ensued the tribals dispossessing from their traditional land and have resulted in the displacement of the communities.

- As per the report of MoRD(annual report of 2007-08), in Karnataka 42,582 cases of tribal land alienation(approx. 130,373 acres of land) have been registered in different courts.
- The court while providing judgment have settled 38,521 tribal land alienation cases where 21,834 tribal land alienation cases were decided favouring the tribals and 4,061 tribal land alienation cases are still pending in different courts of Karnataka.

5. Madhya Pradesh

- Tribal land alienation in MP is a grave situation and the instances can be exposed from the census data where the number of ST cultivators fell to 68.09% in 1991 in comparison to 76.45% in 1961.
- This indicates the rise of landless labours among the tribals which is sheer case of tribal land alienation.
- In the state, there is section 165(6) of the MP land Revenue Code(1959) which averts the transfer of tribal land in tribal majority areas.
- For any transfer of such land, it requires the permission of the revenue officials with reasons mentioning in written document.
- In 1981, through a further amendment, sub-section 6-C was added that establishes the maxims to be conceived by the collector during providing permission for tribal land transfer or denying to grant permission.

- There is section 170-A of the said act which establishes for the restoration of alienated tribal land if coming into conflict with the above sections.
- There is also section 170-B that furnishes for the restoration of tribal land that was transferred illicitly.
- MP has also ordained laws to implement the PESA Act 1996 and to provide genuine power to panchayats and local communities regarding tribal land alienation.
- In most of the cases, the enacted laws remained in paper and rigorous implementation remains a day dream.

- As per the data of the MoRD, by 2007, after settlement of 29,596 land alienation cases, MP is only state which has not decided a single case of tribal land alienation in favour of the aboriginal tribals.
- Among the total of 53,806 tribal land alienation cases amounting 158.398 acres of land which were registered in different courts of MP, 24.210 cases were still pending in the court.

6. Maharashtra

- The Maharashtra land Revenue Code(1966) forbids any transfer of tribal land without the DCs prior permission.
- The Mh govt has enacted another law namely, Maharashtra Land Revenue Code and Tenancy Laws(Amendment) Act, 1974 due to the failure of Mh Land Revenue code, 1966.
- The new law directs that by way of gift, sale, mortgage, exchange and lease, otherwise, no tribal can transfer his/her land to a non-tribal.
- The transfer needs the permission of the Collector(a) in the case of lease or mortgage for a period of five years, (b) with the previous approval of the government, in other cases with effect from July 6, 1974.
- The Mh govt. accepted that permissions by the DCs appear to have been given as a matter of routine and the tribals were also induced to sell their land because of indebtedness and poverty.

- Further, to re-establish the alienated tribal land, the Mh govt. ordained the Mh Restoration of land to STs Act, 1974.
- From April 1, 1957 to July 6, 1974, whatever tribal land were transferred to non-tribals should be restored as per the act.
- But both the above tribal land protection laws have flunked to restore alienated land or to prevent further alienation.
- In the state, a total 45,634 land alienation cases were filed in different courts as per the annual report(2007-08) of MoRD.
- The court has settled 44,624 land alienation cases, where 19,943 cases having 99,486 acres of tribal land were settled in favour of the STs and 1,010 land alienation cases were still pending in the court.

- In the state of Maharashtra, the STs are not aware about the laws and are not organised to counter the land lobby of the affluent segments of the state.
- Due to lack of education and political awareness, they are deprived from the benefit of the laws like PESA and other land prevention laws.
- There is apathy in the part of the state administration and revenue officials and lack of political will to implement the existing laws to protect the tribal interest.

7. Rajasthan

- Tourism is a significant factor for land alienation in certain tribal pockets in the state, where the tribal land is in demand with tourism lobby for building hotels and resorts.
- The means of transfer of tribal land is mostly illegal.
- There are nexus between the revenue officers and other brokers.
- Cheating and fraud means are prevalent to grab tribal land to construct hotels and resorts for tourism purposes and where these means donot work, pressure and force come in handy.
- *Benami*(illegal) transactions of tribal to non-tribal outsiders are very common.
- As the tribals are very poor and indebtedness among them is high, the pressure from outsiders for tribal land frequently works well.

- The state of Rajasthan has enacted the ‘Rajasthan Tenancy Act, 1955’ to preclude the sale of tribal land.
- As per this act, the sale or transfer of land to non-tribals is prevented, and the act does not allow for subletting or leasing out of tribal land.
- The act, through section 183(B), empowers the revenue officers to resolve the issue if there is violation of law on tribal land and also directs to restore the alienated tribal land to the original land owner.
- The state has also implemented PESA regulations and the ‘Rajasthan Panchayat Act of 1999, which was formulated keeping in mind the PESA regulations, passed in 2011 only.
- Despite the above laws and provisions to prevent tribal land alienation, the tide of tribal land alienation is still going on and the laws remain in paper only lacking stringent implementation.

- The reason of such poor implementation is the lack of political will and lack of bureaucratic will and the vested interests of the enforcers themselves.
- To stop illegal transfers, in 1998, the govt. had issued an order to affix photographs of both seller and buyer to the land documents, but the presence of the buyers and sellers in the land registrars office is even not required.
- The *patwaris* are the part of the nexus with the brokers and there is big business interest in tribal land transfer.

- MoRD, GoI(annual report 2007-08) has provided the data that a total number of 2,084 cases of tribal land alienation having 6,615 acres of land were registered in different courts of Rajasthan.
- However, 1.257 cases were settled by the court, where only 187 cases were settled in favour of STs and 53 cases having 187 acres of tribal land were rejected by the court.

8. Odisha

- Land alienation in the state in general and Koraput district in particular is rampant and widespread.
- In Narayanpatna and Behereguda village of Koraput, it is reported that 25% households have lost their land due to NALCO and other projects.
- Brokers and middleman are playing the vital role in tribal land alienation.
- They provide loan to tribal's in exorbitant rate to maintain their basic day-to-day requirements and through these loans they entrap the tribal's and grab the tribal land.
- Besides this, deceitful and fraudulent means and agreements were used by the lawyers, brokers and revenue officers where they all are party, against the desperate, illiterate and credulous tribals.

- Tribal land alienation in the state is established through the chronicles of inflow of the non-tribal outsiders to the tribal areas which also includes the entry of the *gauntias*(intermediaries between the tribals and the king) to tribal areas throughout the British period, and during the survey and settlement process in tribal areas.
- The colonial legacy of identifying and reserving tribal land as reserve forest was followed by the post-independence state which further aggravated the land alienation situation in tribal areas of the state.
- Development projects which require land acquisition add to this history of eviction of the tribals.

- For non-Scheduled areas, the chief legal instrument forbidding alienation of tribal land is the 'Orissa Land Reform Act (OLRA) 1960.
- For preventing tribal land in Scheduled areas, there is the provision of 'Orissa Scheduled Areas Transfer of Immovable Property (OSATIP), 1956'.
- Apart from the permission of authorities, in any circumstances, both the above laws disallow and forbid the transfer of tribal land to non-tribals.
- The OLR Act through Section 23 and 23(A) directs for the restoration of tribal land, if legal procedure is not followed while transferring.
- The Orissa Prevention of Land Encroachment Act (OPLEA), 1972 and Orissa Government land Settlement Act (OGLSA) are the important laws in the state as far as tribal land alienation is concerned.

- The state of Odisha has also accomplished laws with regard to PESA guidelines and rules.
- In spite of various land protection laws, the performance of the State regarding prevention and restoration of alienated tribal land is very poor.
- PESA regulation does not cover municipalities in its ambit and therefore tribal land alienation is rampant in different municipality areas.
- There is contravening between OGLS and OSATIP.
- The OSATIP empowers the gram sabha for restoration of alienated tribal land while the OGLS treats the collector as the authority to do so.

- There is nexus and collusion between the brokers and the revenue bureaucrats and the existing laws have not been implemented in its letter and spirit.
- Powerful vested interests are working there, which have dispossessed the tribals from their land and have denied their rights.
- Land alienation in tribal areas of Odisha is massive and rampant.

▪As per the annual report (2007-08) of the MoRD, among the total number of 105,491 cases of tribal land alienation which were filled in different courts of Odisha, 104,644 cases were settled where 61,431 cases go in favour of the tribals contributing 56,854 acres of land which were restored to the landless tribals.

▪ Due to this continuous tribal land alienation in Odisha in general, and Koraput district, in particular, the district has witnessed various tribal movements among which the Narayanpatna movement (2009-14) is a unique one.

Process of Involuntary Displacement

- ▶ Displacement is a process in which marginalized sections, the majority being tribal people, are pushed out of their own habitat and dispossessed of their resources and indeed their universe around them.
- ▶ In post-independence period, their experience of displacement is as dehumanizing as before independence.
- ▶ Mineral and hydro-electric resource-rich States of India tend to be the very places, which are home to vast majority of tribal people.

▶ The unrestricted power of the State has led to acquire privately-owned land without any obligation on the State to rehabilitate persons affected.

▶ It has resulted in large number of cases of inadequate compensation, forcible acquisition, loss of livelihood, without preparation of resettlement sites and restrictions in access to forest, other CPR and loss of community ties, cultural and religious heritage.

- ▶ In the case of displaced tribal people their unfamiliarity with money market led to devastating consequences.
- ▶ All this has led to 'abject and chronic impoverishment' of the displaced people.
- ▶ Public Authorities and Private Corporations alike have either sought to or succeeded in acquiring land, forest and other common property resources from marginalized groups, by giving meager compensation.
- ▶ The Displaced People (DPs) and Project Affected Persons (PAPs), who were better organized and articulate have been able to get the benefits of the Resettlement and Rehabilitation (R & R) much better as compared to those who were not organized by NGOs or civil society and who could not articulate their grievances, have ended up being pauperized.

Forced Migration for Economic Survival

- ▶ Tribal people suffer predominantly from the phenomenon of poverty–induced migration on account of rain-fed agriculture and absence of other avenues of employment.
- ▶ Fragmentation of land, loss of land due to acquisition and illegal land alienation by non-tribals also cause people to migrate.
- ▶ Deforestation and decreasing access to forests and drought are other contributory factors for tribal migration.
- ▶ Due to compulsion involved in migrating in search of livelihood it would be more accurate to describe such migration as ‘forced migration’.

Mining induced Displacement: A Case Study of Kalahandi District, Odisha

- ▶ The report of the four member committee on Mining in Niyamgiri hills explored that the Proposed Mining Lease(PML) area is intimately linked, by way of economic, religious and cultural ties, to 28 Kondh villages with a total population of 5148 persons.
- ▶ The affected include about 1453 Dongaria Kondh which constitutes 20 per cent of the total population of this tribe.
- ▶ In both villages, Kutia Kondh and Dalit households have sold their agricultural lands to the company, and are left only with their homestead land.
- ▶ The impact of the mining activities was on the local environmental quality, including air pollution, noise pollution and contamination of local water supplies.
- ▶ Displacement is defined vary narrowly in the VAL project, a large number of people in the mining site have lost their job as they were depending upon the forest resource for their livelihood.

What does justice mean in the context of resource allocation?
How should decision-maker choose between equality(sameness) and equity(fairness)?

A Movement against Bauxite Mining in Odisha's Niyamgiri Hills- A Case Study



Conclusion

- Land alienation is not a mere 'structuralist-legalist' phenomenon rather it is related to the existing socio-economic order.
- Land alienation gradually leads to depeasantisation of the tribals and hence violates their basic rights to life.
- The dynamics of tribal land problem is related with the ownership pattern in adjoining plain lands.
- The relationship of non-tribals with that of tribals is not of symbiosis but of parasitism.
- Increasing industrialization in the tribal belt have led to their impoverishment, displacement, alienation and violation of their rights.
- Unscrupulous forest policy has led to pauperisation and violent unrest among the tribal population.
- Decentralized developmental process involving voluntary agencies at the grass root level have made the tribals increasingly aware of their rights and privileges.

- With this I come to an end of the session on Land Alienation, Displacement and Migration and leave you with few questions which you will find easy.
- Further, a link to a documentary on gaon chodab nahi (we will not leave our village) is shared here, which you will find interesting.
<https://www.youtube.com/watch?v=8M5aeMpz0LU>
- Thanks for watching the video.

Quiz Question

Q.1. Under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, who shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both?

- (a) State Forest Department
- (b) District Collector/Deputy Commissioner
- (c) Tahsildar/Block Development Officer /Mandal Revenue Officer
- (d) Gram Sabha

Q. 2 LARR stands for:

- (a) Right to Fair Compensation and Transparency in Land Allotment, Rehabilitation and Resettlement Act, 2013
- (b) Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
- (c) Right to Fair Completion and Transparency in Land Allotment, Rehabilitation and Resettlement Act, 2013
- (d) Right to Full Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

Q.3 The controversial Vedanta Aluminum Plant is located in —

- A. Maharashtra
- B. Odisha
- C. Jharkhand
- D. Bihar

Readings

Department of land resources, Ministry of Rural Development, Government of India(2017), Report of the Committee on State Agrarian Relations and the Unfinished Task in Land reforms, June 8.

Ministry of Tribal Affairs (2014), Report of the High Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities of India.

Xaxa, Virginius(2014) *State, Society and Tribes: Issues in Post-Colonial India*. New Delhi: Pearson.



Thank you