

Land Rights and Indigenous Women in Odisha

Mr. Junas Sabar

Ph.D Scholar (RGNF-SRF), Berhampur University, Ganjam, Odisha-760007

India is home to the largest population of indigenous peoples of in the world. As per the 2011 census, the population of Scheduled Tribes (STs) or Adivasi, the terms by which indigenous peoples are known, are 84326240¹. They constitute 8.2 percent of the country's total population with 705 groups listed as STs Populations in 30 states with Union Territories of India. More than half of the indigenous peoples inhabit the central Indian region and some of the North eastern states. The indigenous peoples are compared to the total population in states is the highest in Lakshadweep (94.5%), Mizoram (94.5%), Nagaland (86.1%), Meghalaya (85.9%) and Odisha (22.1)². Only 10.03% of indigenous peoples are living in urban areas, whereas they constitute 10.4 % of the total rural population in India. Indigenous peoples in India range from some of the last uncontested indigenous communities in the world, like the Sentinelese of the Andamans, Gonds and Santhals of Central India and some Souras or Saoras are in Southern and Northeast. They include not only communities who live under conditions of extreme destitution, but also communities with social indicators well above the national average. Across circumstances and areas, like other indigenous communities around the world, India's indigenous peoples do share characteristics social, political and economic marginalization, as well as expropriation of their traditional lands and territories³.

Keywords: *Indigenous Womens, Shelter, Forest Rights Act, Traditional Activities and Economic Marginalization*

Definition of Indigenous Peoples

In India, 'Scheduled Tribes' is used to refer to indigenous peoples instead of the UNDRIP terminology, so the national legal and policy frameworks laid down for STs as those relating to indigenous peoples will be considered. It is however to be noted that the Scheduled Areas and Scheduled Tribes Commission (1960), also known as the Dhebar Committee refer to the tribes as 'Indigenous' in their reports. The STs are distinguished from the caste groups or other minority groups and are accorded special status in the Indian Constitution. As mentioned in article 366 (25) of the Indian Constitution, they have, de facto, been treated as 'indigenous peoples' in India for every legal, constitutional and administrative purpose. They are the tribes or tribal communities that have been declared as such under article 342 of the Constitution of India by the President through a public notification. Indigenous peoples' characteristics have been reported in the 1931 Census and in the Report of the first Backward Classes Commission (Kalelkar Commission) 1955, the Advisory Committee on Revision of the Scheduled Castes and Scheduled Tribes lists (Lokur Committee) 1965 and the Joint Committee of Parliament on Scheduled Castes and Scheduled Tribes Orders

(Amendment) Bill, 1967 and the Chanda Committee 1969. The characteristics developed and widely accepted and used in academic discourses, policy making, administrative purposes are: primitive traits, geographical isolation, and distinct culture, shy of contact with community at large and economically backward. The government of India and some Indian “intellectuals” deny the applicability of the term “indigenous peoples” and maintain that all peoples in India are indigenous despite being one of the countries that voted in favour of the adoption of the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP) in 2007. However, in the 2012 Universal Periodic Review (UPR) National Report, the government of India recognized the need to empower the Scheduled Tribes to tackle discrimination that is perpetrated against them⁴.

National Policy on Traditional Lands

Article 244 of the Constitution, provides that the Fifth Schedule shall govern administration and control of Scheduled Areas and STs in any state other than Assam, Meghalaya, Tripura and Mizoram and the tribal areas in Assam, Meghalaya, Tripura and Mizoram (all in northeast India) shall be governed by the Sixth Schedule. The Fifth Schedule provides for the establishment of Tribal Advisory Councils and the declaration of Scheduled Areas. The Sixth Schedule provides for the creation of Autonomous District and Regional Councils (ADCs) and accords certain legislative, executive and judicial powers to these autonomous bodies. Regarding land rights, the ADCs have legislative powers on matters relating to allotment, occupation, or the setting apart of land, other than reserved forests, for the purpose of agricultural or grazing or for residential or other non-agricultural purposes or for any other purpose likely to promote the interests of the inhabitants of any village or town (Provided that nothing in such laws shall prevent the compulsory acquisition of any land, whether occupied or unoccupied for public purpose); for the management of any forest that is not a Reserved Forest; for the use of any canal or water course for purpose of agriculture and for the regulation of the practice of *jhum* or any other form of shifting cultivation.

Indigenous Women’s Burden

This briefing paper highlights the specific conditions of indigenous women who comprise a major segment of indigenous communities where development projects are being implemented in India and Odisha. In the midst of restiveness against corporate takeover of their lands, territories and resources, the indigenous peoples, particularly indigenous women are grappling with the consequence of their resistance and finding means to forward the advocacy of the recognition and protection of their rights and welfare. The oft-repeated phrase ‘Land is life’ never rang truer or louder than today among indigenous women, who have traditionally been bearers and keepers of seeds and that translate to food security of their communities. Indigenous women are mainly the bearer’s traditional knowledge of Indigenous people in relation to the use conservation and sustainable management of their natural resources, as well as on certain traditional skill in relation to the livelihoods and traditional occupations of Indigenous peoples, such as shifting cultivation/rotational agriculture, gathering of non-timber forest products among others. Already saddled by

the burden of discrimination and marginalisation because of their ethnicity, gender and socio-economic status, Indigenous women in the three countries are facing more challenges as land alienation looms larger and as their lands are taken away and converted into larger scale rubber and palm oil plantation and cashew plantation as in the case of Indigenous communities in Odisha, Andhra Pradesh as well as the our country. Dislocation and displacement environmental degradation due to fuel, gas exploration, dam and mine construction in Northeast and Southeast India are also issue faced by the Indigenous peoples, especially women for example of POSCO and Vedanta Project in Odisha. Economic land concession has disturbed the spiritual ground and forest as sources of livelihood of Indigenous women in Gajapati district to favour rubber plantation and Cashew plantations and shifting cultivation. Indigenous women in our countries who are part of resisting and protesting communities, including their children have been subjected to threats and harassment and other forms of violence.

Indigenous Women are facing the crisis

Day to day, Indigenous women are faced difficulties and adversities on many front, they are striving hard to rise above their condition, as they are directly engaged in the production and management of resources from their land for their families and the community's daily survival. They are struggling hard not to relinquish their role of stewardship over their territories, thus reeling from the harsh consequence of capitalist incursion in their territories; the Indigenous women have to contend with the minimal space allowed them in leadership in the local levels. The alienation from their land has compelled Indigenous women to mobilise themselves into political action, but not without harsh reprisal from corporate and state enforcers. In the face of land displacement and violation of their rights, their marginalisation and discrimination weigh heavily on the shoulders of Indigenous women as they go about their daily tasks and duties of keeping their families together, bearing and raising children, problematizing about food security helping keep the community together, defending themselves from domestic and state violence. Still in varying degrees forms and due to the differing social cultural practices in the affected communities, there is persistence of violence inflicted on Indigenous women and children. They are easy targets of sexual abuse and harassment, even murder by state forces and company security personnel. Sadly the destitution has even resulted to Indigenous women and children being prostituted and trafficked by unscrupulous entities. The brutal practice of which hunting in some rural areas in India bears land related reasons where state laws need to be enforced to curb this.

Indigenous Women take the Rights advocacy

The political landscape for Indigenous women rights advocacy and their clamour for land ownership varies in our countries. The political climate in countries has not helped ease the strife in distressed communities. Any semblance of organisation activities, such training for women is miss-constructed as resistance. Because the willingness and enthusiasm of Indigenous women to know their rights and to understand their vital role in the growth of their implementation. Even in the most remote districts and provinces, where

communities' technology is scarce, Indigenous women have found ways to document their ordeals in the face of economic land concession.

Scheduled Tribes Recognition of Forest Rights Act 2006

The Forest Rights Act (FRA) seeks to recognize the rights to land and other resources of forest-dwelling and forest-dependent communities denied to them by forest laws thus far. The use of land includes livelihood activities such as the collection of minor forest produce, the use of water, of grazing grounds, and of habitat for shifting cultivation. Marginal communities living in or near forests have long been made more vulnerable by the State's lack of acknowledgement of their right to their forest-dependent livelihoods. Under the Indian Forest Act, 1927 and the Wild Life (Protection) Act, 1972, local peoples' right to forestland and resources had to be affirmed by a forest settlement officer. Those not recorded in the "settlement process" were susceptible to eviction any time. Under the Forest Rights Act, rights to forests include ownership rights, use-rights (for minor forest produce, grazing areas, and pastoralist routes), relief and development rights (entitlement for rehabilitation in case of illegal eviction or forced displacement, and to basic amenities) and forest governance rights (the right to protect forests and wildlife). The process by which these rights are recognized is outlined in Section 6 of the FRA. It is the *Gram Sabha* or, as per Section 2 (g), any traditional village institution, "with full and unrestricted participation of women" that passes a resolution determining which community's rights to which resources and to what extent are to be recognized by the government.

State laws for Indigenous women

Besides national laws, various states in India have state laws that affect rights of indigenous peoples over their lands, territories and resources. One example is the "Odisha Land Grabbing (Prohibition) Act, 2015" or "Jangal Jammi Act 2015" recently passed by the Odisha government. The Act criminalizes occupation of land without legal document (*patta*), punishable by seven years imprisonment. Tribals in the State have occupied and survived off their lands for generations without legal registration. Only some have legal documents over their lands. This law was adopted despite dissent, including a boycott, expressed by the opposition party⁵.

Land Alienation and Acquisition

Loss of land remains the single biggest cause of deprivation of the livelihoods, lives and homelands of STs across India. The mechanisms for such expropriation of land vary, but included are the forest laws and major development projects that result in displacement of people. The power of the Indian State to forcibly acquire private property (and to divert common property to any use it sees appropriate) has been used with particular ferocity against Adivasi communities, who have suffered disproportionate displacement and loss of livelihoods as a result of repeated seizure of their resources in this manner. Indian law provides very few institutional or statutory protections for common resources and homeland.

Women and Youth:

Significant contributions were made through the project in addressing gender issues and bringing structural changes at the local level. Women, elders and youth have become part of decision-making bodies. Women self-help groups were strengthened through income generating activities and biodiversity conservation efforts. They established their network for cooperation and solidarity at the state level and organizational strengthening activities were organised to improve their financial system. These actions allowed women in their daily struggle to provide food for their families as well as to gain the respect of men in their communities. Economic empowerment of 6,944 women and strengthening of livelihoods of 2,474 households were undertaken. In addition to addressing gender issues, the roles and potentials of the youth were also recognized as an important change agent in sustainable natural resource management and development. Adivasi Youth Forums were created to enhance the agency of youth⁶.

Indigenous peoples' is a generic concept for those that are regarded as being 'first' on a particular territory, before the 'settlers' came and out populated, enslaved, exploited and murdered them. And it is a concept that itself was created in the process of modernism and is rejected by many people that is counted as 'indigenous'. Today, indigenous peoples, more than any other category, are on the frontline of the postcolonial struggle, fighting for their survival, literally, but also culturally and economically. They are often those that are on the receiving end of climate change, extractivism and continuous territorial claims by their 'host' governments. Indigenous peoples and nations are those which, having a historical continuity with their pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies, now prevailing in those territories or part of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generation their ancestral territories and their ethnic identity as the basis of their continuous existence as peoples in accordance with their own cultural patterns, social institutions and legal system. Indigenous women often face double discrimination; they are discriminated as indigenous and as women. Discriminated as women they experience not only from the surrounding society but often also from within their own communities. Integration into national society and the adoption of elements of mainstream culture often leads to a further weakling of the status of women in indigenous societies. Indigenous women thus suffer from a range of problems related to the violation of their rights. These include among others; lack of participation in decision making process, lack of control over income to sustain themselves and their families, lack of land rights, lack of access to education, harmful traditional practice such as female genital mutilation, domestic evidence and gender based violence in situations of armed conflict and militarization. Gender equality is a measure of just and progressive society. Equality in land right is a critical element for women's economic empowerment. Here empowerment is defined "as a process that enhances the ability of disadvantaged (powerless) individuals or groups to challenge and change (in their favour) existing power relationships that place them in subordinate economic, social and political positions. In largely agrarian

economics, arable land is the most valued form of property and productive resource. It is a wealth creating and livelihood sustaining asset. For a significant majority of rural households it is the single most important source of security against poverty. Traditionally, it has been the basis of political power and social status. For many, it provides a sense of identity and rootedness. It is an asset that has a permanence that few other assets possess. In some communities, ancestral land also symbolically stands for continuity of kinship and citizenship⁷. Women's right over the land is a crucial issue for any developing society as it is directly linked to right to food, work and other human rights. The denial of inheritance of land rights especially in a patriarchal system has contributed to the subordinate status of women. The Government of Orissa has decided to distribute all such land under ceiling surplus people with high priority being given to landless widows and unmarried women up to 30 years of age, as well as to point 'patta' for the husband and wife. Still significant gaps exist between women's land rights and their actual ownership and possession. While many of these links are well recognized at the household level, their importance specifically for woman has received little attention. Indeed, the issue of women's rights in land (and more generally in property) has been until recently largely neglected in both research and policy⁸. Much like those of women of any other country, property rights of Indian women have evolved out a continuing struggle between the status quoists and the progressive forces. And pretty much like the property rights of women elsewhere, property rights of Indian women too are unequal and unfair: while they have come a long way ahead in the last century, Indian women still continue to get less right in property than the men, both in terms of quality and quantity.

It may be slightly different about the property rights of Indian women is that, along with many other personal rights, in the matter of property rights to the Indian women are highly divided within themselves. Home to diverse religions, till date, India has failed to bring in a uniform civil code. Therefore every religious community continues to be governed by its respective personal laws in several matters – property rights are one of them. In fact even within the different religious groups, there are sub-groups and local customs and norms with their respective property rights. Thus Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights codified only as recently as the year 1956 while Christians are governed by another code and the Muslims have not codified their property rights. Tribal women of various religions and states continue to be governed for their property rights by the customs and norms of their tribes. To complicate it further, under the Indian Constitution, both the central and the state governments are competent to enact laws on matters of succession and hence the states can, and some have, enacted their own variations of property laws within each personal law. Land rights of women are one of the most important issues of women's movement in the world. For the first time in the history of India Hindu Succession Act, 1956 women received a symbolic recognition of land rights. In between 1956 to 2005, the question of land rights of women was much debated and the organizations fighting for this cause mobilised to women a lot. Prof. Bina Agarwal was the first and most

important academician to take up the issue of land rights of Indian women to the fore front of the world. The question of women's right on land has remained in a grey area of women's identity crisis visa-vi the debate of women's right. Mostly, the hypotheses of our research were proved to be positive showing either the landlessness or women's negligible right over land. Review of literature shows though there were many researchers in the world and the country on this issue but it is few in case of Odisha. As far as present situation is concern the agrarian structure and the agricultural working population in Gajapati district and that of Odisha reveals a sorry state of affairs. Along with it property right is a very big question which gives access to their entitlement over their agrarian or agricultural livelihood. In the sense of right to property and specifically status of populace. Women constitute less than half of the population in the district. Their right over property is a question to be probed. In this lieu women's property right, access and control over land will be examined basing on both the primary and secondary data. Women are a vital part of Indian economy. Over the years, there is a gradual realization of the key role of women in agricultural development and their vital contribution in the field of agriculture, food security, horticulture, processing, nutrition, sericulture, fisheries and other allied sectors. Women form the backbone of agriculture in India and Odisha, comprising the majority of agricultural labourers; women have been putting in labour not only in terms of physical output but also in terms of quality and efficiency. Women are critical to the well-being of farm households. Aside from raising children, women are expected to prepare all meals, maintain the homestead, assist in crop and animal production, all the while tending to the general health of their families. Perhaps, ironically, it is because women have so many responsibilities that they have been over-looked by agriculturalists and policy makers it has been more convenient to label men as farmers and women as child raisers and cooks. In truth, women are involved in all aspects of agriculture, from crop selection to land preparation, to seed selection, planting, weeding, pest control, harvesting, crop storage, handling, marketing and processing. Whatever the reason for this neglect, the importance of developing farming technologies relevant to women has only recently been recognized. Rural Women form the most important productive work force in the economy of majority of the developing nations including India. Agriculture, the single largest production endeavour in India, contributing about 18% of GDP, is increasingly becoming a Female Activity. Agriculture sector employs 4/5th of all economically active women in the country. 48% of India's self-employed farmers are women. There are 75 million women engaged in dairying as against 15 million men and 20 million in animal husbandry as compared to 1.5 million men. Beyond the conventional market-oriented narrower definition of 'productive workers⁹', almost all women in rural India today can be considered as 'farmers' in some sense, working as agricultural labour, unpaid workers in the family farm enterprise, or combination of the two. Moreover, several farm activities traditionally carried out by men are also being undertaken by women as men are pulled away into higher paying employment. Thus, Rural India is witnessing a process which could be described as Feminization of Agriculture. The women are the backbone of agricultural workforce but worldwide her hard work has mostly been unpaid. She does the most

tedious and back-breaking tasks in agriculture, animal husbandry and homes. The research efforts at the ICAR institutes have been tried to relieve her of the drudgery by providing time and labour saving tools. Vocational trainings are also being conducted, to impart skills to undertake different avocations. In extension activities the women is now the centre point and activities are being planned keeping her in view. Her enlightenment will change the face of rural India. Several programmes started at the National Centre for Women in Agriculture and Krishi Vigyan Kendras, are the right steps in this direction. The National Research Centre for Women in Agriculture (NRCWA) has been functioning at Bhubaneswar, Odisha for developing methodologies, for identification of gender implications in farming systems approach and to develop women specific technologies under different production systems. There are some ongoing research projects in the areas of gender study on agriculture and household economy, management of coastal agro-eco system, extension methods for farm women, standardization of women specific field practices, occupational health hazards, reducing drudgery of women in agricultural operations, improvement of farming system suited to farm women, eco-friendly pest management technologies for vegetables among farm women, evaluation of interactive learning modules, technological needs in empowering women in rural aquaculture, and improvement in storage practices of seeds and grains.

Odisha has been a suitable home for tribal communities and occupied third largest concentration of tribal population, compose of 62 tribal communities include 13 PTGs with 64 dialects reside in this state having one-fourth of its population. This tribal mainly concentrated in high proportion in seven TSP (Tribal Sub-plan or Scheduled Area) which covering 188 out of 314 block in 12 district having 68.9 percent of total tribal population of the state¹⁰. India attained 67th year of independent the primitive tribes are remaining isolated from main stream of development. Their socio-economic and educational condition worse than other tribes. Their traditional sources of sustenance are decline and they motivated towards subsistence agriculture for food security. According to 5th plan of Govt. of India provide special emphasis for inclusive development and consider them as primitive tribal groups which subsequently noted as particularly vulnerable tribal groups (PTGs). There are 21 ITDA (Integrated Tribal Development Agency), 46 MADA (Modified Area Development Approach) and 14 clusters working in the state. The remaining tribal population of the state lives outside the major packet areas in a dispersed manner and are cover under the dispersed tribal development programmes (DTDP). In addition to this 17 micro projects have been functioning for all round development of 13 PTG. Apart from this there are also various programme and institute like OTELP (Odisha Tribal Empowerment and Livelihood Programme), ATDC (Academy of Tribal Dialects and Culture), SCSTRTI (Schedule Caste/Schedule Tribe Research and Training Institute) and TDCCOL (Tribal Development Co-operation Corporation Limited) etc are working for welfare and development of schedule tribe. However, out of 13 primitive groups, Lanjia Soura Belongs to austro-Asiatic linguistic group depends on terrace cultivation and inhabited great extents in Gajapati and Rayagada district of Odisha. The Lanjia Soura constitute total 473233 population according to 2001 census of the state

whereas male constitute 235739 and female compose 237494 of total Soura populations. Apart from this, the literacy rate of concern tribe is 41.13 percent whereas female compose of 25.74 of percent and male compose 56.74 percent. Despite it, the total workers irrespective of Soura tribe constitute total 236380 where male constitute 133541 on the contrary female constitute 102839.¹¹ The Lanjia Soura deserve special attention of policy makers for various factors such as high illiteracy rate of female, women and girls are engaged as child labour, affected by mal-nutrition and ill health. Low age marriage is marked here in this community which has made girls overburdened. Less access to land (CPR, Private land and paddar Land) has led to decrease in production. The CPRs on which the tribal and some other communities sustain themselves. In their tradition, the right to use land emanates from recognition by the community since land and other natural resources are their sustenance. It is part of an ecosystem with the local community at its centre. Its dependants build a culture, an economy and an identity based on its sustainable use¹².

Conclusion

Indigenous people itself appear to be contentious in the Indian context as there are many claimants to it; these include the Dalits, the Vaishnavite Meiteis of Manipor, Hindus of Assam and Odisha of Soura or Lanjia Saura. It will perhaps be always better to avoid using the popular NGO nomenclature Adivasi in the tenors of serious academic discourse when dealing with the notion of indigenous groups in the Indian context. Despite the 2012 amendment to the FRA Rules which was passed in order to strengthen the implementation of the FRA, 2006, the government has not yet issued any new land title within the project area. However, the process of community mapping in the three states of Odisha, Chhattisgarh and Jharkhand has contributed to the protection of the rights of indigenous peoples, particularly their forest rights, and to the protection and enhancement of biodiversity and sustainable resource-management. Increased awareness of their rights under national and international laws has increased efforts of Adivasi communities in the three states to secure their land rights. Cooperation among them has also been enhanced through the formation of networks. Inclusive and rights-based approach to community mapping is empowering Adivasi communities and their larger network in gaining deeper understanding of their collective rights. The community mapping activities have also proven to strengthen solidarity within the communities and provided an opportunity for the younger generations to gain knowledge of the extent of their lands, territories and resources and to continue the assertion of their rights through the use of these tools.

Reference:

1. http://censusindia.govin/Tables_Published/A-Series/A-Series_links/t_00_005.aspx net time: 11/23/2016, 21:52 (Census 2011), Page 1.
2. Ibid. Page No.2.

3. Jade T., and Shakya, P (2016), '*Indigenous Peoples' Initiatives For Land Rights Recognition In Asia*', Asia Indigenous Peoples Pact (AIPP) Foundation. 08 September 2017, 21:11:09. Page- 32. http://Indigenous-Peoples-Initiatives-for-Land-Rights-Recognition-in-Asia_AIPP_FINAL_2016
4. Jade T., and Shakya, P (2016), '*Indigenous Peoples' Initiatives For Land Rights Recognition In Asia*', Asia Indigenous Peoples Pact (AIPP) Foundation. 08 September 2017, 21:11:09. Page-33. http://Indigenous-Peoples-Initiatives-for-Land-Rights-Recognition-in-Asia_AIPP_FINAL_2016
5. Ibid. Page No.35-36.
6. Ibid, Page No.39.
7. Burman Roy, J.J., (2009), '*Adivasi: A Contentious Term to denote Tribes as Indigenous peoples of India*', Mainstream Weekly, Vol. XL VII, No 32, July 25. <http://www.mainstreamweekly.net/article1537.html>.
8. A Briefing Paper : The Impacts Of Land Dispossession On Indigenous Women, Asia Indigenous Peoples Pact (AIPP), 108 Moo 5, Tambon Sanpranate, Amphoe Sansai, Chiang Mai 50210 Thailand, Contact: +66(0)53 380168, fax. +66(0)53 380752. http://final_briefing_paper_impact_of_land_dispossession_and_iw_feb_2015.
08 September 2017, 21:11:09, Page 9-12.
9. Ghosh, M.M., and Ghosh, A., (2014), 'Analysis of women participation in Indian Agriculture, *IOSR Journal Of Humanities And Social Science (IOSR-JHSS) Volume 19, Issue 5, Ver. IV (May. 2014), PP 01-06 e-ISSN: 2279-0837, p-ISSN: 2279-0845. www.iosrjournals.org*
10. Smith Linda Tuhiwai (2012), '*Decolonizing Methodologies: Research and Indigenous Peoples*', Landon.
11. Rius, M.B., (2011), '*Indigenous Women and the Land: Shifting Language, Action and Culture*', Development.54, Pp.433-436.
12. Agarwal, B (2002), '*Are We Not Peasants Too? Land Rights and Women's Claims in India*', SEEDS, Number 21, India, Pp.7
13. Census2011, '*Gajapati District Portal Data*'. <http://indikosh.com/dist/431047/gajapati/> Net accessed on 20-04-2017, 09:07. Pp.1-2.
14. Census 2011, '*Gajapati District Portal Data*', Net accessed on 11/32/2016 04:08 Pp.1/2. <http://www.stscodisha.govin/Aboutus.asp?GL=abt&PL=1>