

TERRA FIRMA: A GROUNDING IN KORAPUT'S LAND ISSUES

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The recent unrest among the tribals of Koraput district, particularly in the Narayanpatna block, has received great attention in Odisha and beyond. The tribal group known as Chasi Mulia Adibasi Sangh (CMAS) has taken up a century old land issue which pits Koraput tribals against the landlords of the area. Their argument is that the land belongs to them and that they have been cheated out of possession by the landlords. CMAS has seized approximately 2000 acres of private land and redistributed it among the landless tribals of the area to cultivate. Two tribals were killed as a result of this conflict and several non-tribal families have left their villages in fear of attack. The administration is giving assurances that they will work to solve the land dispute at the earliest opportunity but these assurances which have been given so often without follow through have not contained the struggle and violence which are spreading to nearby areas.

This is not the first tribal uprising in Koraput on the issue of land. Historically, each decade has witnessed some kind of uprising and violence but without any substantial and effective changes. The land issues of the tribals of Koraput are complex and are the result of centuries-old negligence of the revenue administration. This paper provides grounding in the historical context for land conflicts and the length, breadth and depth of exploitation that tribal people have endured with regard to land, concluding with practical solutions that would settle these conflicts and allow the "first people" of the region to live in peace.

Land revenue administration during rule by kings

The present undivided Koraput was formerly the hill country of Jeypore. The history of the land is the history of the primitive tribes who have made it their home. From the fifteenth century until the British period, a line of kings and zamindars ruled the area.

The land revenue administration was the ancient feudal system. As there was no survey or settlement of land during this period, land was measured in terms of yoke or seed capacity and it was not possible to know exactly the amount of land each tenant occupied. The lands were administered partly by the *roytwari* system and partly on a village system called *mustajari*. In the *roytwari* system there was documented agreement between the landlords and tenants; there was a register of each village and *Amin* or villagers were appointed by the estate as the revenue *Naik*. There were very few villages under this system.

The *mustajair* is an agent for the collection of rent who was paid either by a grant of land or percentage of the rents collected. The office was hereditary and normally held by an influential person in the village. The *mustajaris* are not required to keep any account of records of the holdings in village. As the area was ruled by a king from the coastal plains, most of the *amins* and *mustajairs* working for him were not tribal people. There was exploitation by the *amins* and *mustajairs* which forced many tribals to be displaced from their land, going deeper into the dense forest.

Land revenue administration during the British period

The British first established a factory in the year 1682 at Vizagapatam, which became their entry point to the Koraput region. The interest of the British was to collect revenue from zamidars and kings and exploit the forest resources. As far as rights over land was concerned, the British rule did not attempt to become the arbiter of any such rights, nor did it intend to set up any principles for their determination, however, their impact was not neutral. In order to increase land revenue the British introduced many acts but there was no attempt to simplify the land revenue system. Under the terms of the "Permanent Settlement", the relationship of the British and the feudal estates tended to increase the power of the feudal system to the detriment of the tribals. As the British increased rents, the feudal estates in turn passed these costs on to the tribal tenants. The British also increased the relative power of the privileged by granting statutory concessions regarding the use of timber and forest materials under the Jeypore forest rules. The Madras Estate Land Act which governed the relationship between the land holder and the tenant came into force in the district from 1st July 1908 but the tenants did not derive any benefit from it.

However, there was one important enactment to safeguard the interests of adivasis: the Agency Tracts Interest and Land Transfer Act, 14th August 1917. This was passed with a view to preventing transfer of lands from adivasis to non-adivasis, which was taking place rapidly in the area. However, the bulk of the transfers in the district had already taken place before this act was passed. According to "The Final Report on the Major Settlement Operations in Koraput District 1938 to 1964"

"People could not take advantage of the passing of this Act as they were uneducated and ignorant, even transfers made after the date. The estate officials remained completely indifferent in the matter and muted the names of the transferees in the estate records. This left practically no documentary evidence for proving transfer of the lands of adivasis to non-adivasis. Further, this Act did not affect the relinquishment of land by adivasis in favour of the land holder. So in several cases the Act was dodged by the adivasis relinquishing his lands in favour of Jaypore estate and the shrewd non-adivasi transferees in obtaining the same from the estate employees."

In order to give focus the area for special development projects, Koraput was first treated as backward tract under the Government of India, Act 1919 and in the 1935 Act it was classed as a partially excluded area. In spite of all these well-meaning efforts, commercial ambitions and an imperialistic arrogance prevailed, causing a decrease in the quality of life of the tribals rather than the intended benefit.

In independent India

A new chapter in the history of Jeypore country was begun when the district of Koraput was formed and incorporated in the new Orissa province on 1st April 1936. For the first time there was a survey and record of rights operations were carried out in the district on a small scale. The operation was suspended during war time from 1939 to 1945 but then resumed in

1947. However, more priority was given to developing the area than to establishing land rights for the tribal residents.

The survey settlement process started in 1951 and continued up to 1964. The Government of Orissa adopted the plane table method of survey rather than the chain survey method, the former being less costly, but the plane table survey method came at great cost for the tribals. Plane table surveys do not record slopes greater than 9 degrees, which are the traditional agricultural lands of Orissa's hill tribes. Thus the traditional rights of the community over land have been abrogated, in favour of the State.

Because of the faulty survey methods most land was documented as government land, recording only a small percentage as privately held, specifically 20% in Koraput, 19% in Malkangiri, 30% in Nabarangpur and 20% in Raygada. Currently 30% of undivided Koraput's population (the majority non-tribals) hold 70% of the private land. The historical cause for this was that the *amins*, *mustajars*, *inamdars*, landlords and feudal heads recorded the majority of land in their own names rather than that of their tenants. They were able to do this because of their closer relationships to the surveyors and greater knowledge of laws and land processes. The tribals became marginalized because of their lack of knowledge and shy nature.

Homestead and village sites in undivided Koraput

The rights of tenants in these areas was governed under Madras Estate Land Act (M.E.L Act), 1908, which was concerned with the rights and responsibilities of the owners relating to agriculture land. A survey was performed under this act to establish those rights, but village sites, otherwise known as *Gramkantha Paramboke* land, was excluded from the survey as per section 3(16) of the M.E.L Act. Thus, the village sites were not surveyed and were identified as single plots for identification.

When the M.E.L. Act was succeeded by the Orissa Estate Abolition Act, 1952 another survey was performed (although not until 1962) but village sites in rural areas with few exceptions were not surveyed and no records of rights (RORs) were issued to villagers for their homesteads and kitchen gardens. The government of Orissa issued a letter in 1978 directing that these *Gramkantha Paramboke* lands should be surveyed and rights should be given accordingly as homestead land but this survey and these RORs have to date not been completed.

Subsequently, there have been administrative instructions to the district Collector to settle the *Gramkantha Poramboke* land in favour of the villagers but progress on this front is minimal. As a result, approximately 90% of villages in the undivided Koraput district the villagers do not have ROR on homestead land though they have been living there for centuries.

This brings us to the current day, in which large dam and industrial projects have displaced many people who have not received any compensation on their homestead land because, in spite of the clear intent of the government to do so, these lands have never

been surveyed nor records of rights recorded. In the coming years leases for many companies to take over Koraput land are in the pipeline. If they are granted, many villages will be displaced and if these villagers do not have documented rights to their land they will not be entitled to compensation as a result of their displacement. If not resolved immediately, this will result in a tragic injustice.

Tribal discontent on land after 1950

The initial euphoria of independence soon crashed to ground as exploitation of tribals by powerful people – now fellow Indian citizens rather than the British - continued.

The first uprising after Independence came in 1951, in Gunupur area under the leadership of Sri Biswanath Pattnaik, also known as Koraput Gandhi. After long self-analysis and reflection, Biswanathji started Bhoo Satyagrah. He considered Gopabandhu Choudhury as his teacher and guide and wrote to him about his idea of Bhoo Satyagrah, but he did not get any reply from his guru. Undaunted, he started organizing tribals in the 30-35 villages of Gunupur region and a land committee was formed. During the Bhoo Satyagrah, the satyagrahis used to request the people who had occupied their land to move, file cases against them and made the whole list of encroached land. If the case could not be resolved within two or three hearings the tribals used to declare and occupy their land.

The Savaras who followed the path of Mahatma Gandhi non-violence became an embarrassment to the government and it became a law and order problem. During the Assembly session in June 1952, the question was raised on this issue and the then Chief Minister Sri Nabakishore Choudhury answered: "Savaras tried to occupy their lands but they went without arms. Since nobody heard their grievances on land matters they have formed a Bhoo Satyagrah Committee to get their land back". Some Revenue Board Officials went and tried to end the dispute by mutual discussion but without success. A few Bhoo Satyagrahis were also arrested at that time. The core issue remains unsolved because there was not the political will to solve the problem.

By the end of 1970, radical communist ideology had started capturing the minds of the poor. Biswanathji often opined and remains of the opinion that if the problems had been sincerely addressed then tribals would have never adopted violent tactics. In the 1950s also there was discontent against the Machhkund dam in Koraput by the displaced people under the leadership of Sri Gangadhar Jhola.

In the meantime Sri Vinobha Bhave entered Orissa with his Bhoodan thought, but not much could be done in Koraput district. The Bhoodan Yagna movement was launched in 1955 in the district and as per government records, nearly one lakh sixty five thousand two hundred sixty acres of land were donated in the district. The Odissa Bhoodan Yagna Act 1953 was further amended to become the Odissa Bhoodan and Gramdan Act, 1971. However, in Koraput region, noble thought failed to solve the land issue. During the settlement operations the lands gifted to Bhoodan Yagna were not recorded in favour of the samiti. In many cases the lands donated in favour of Bhoodan Yagna samiti have been re-occupied by the donors themselves.

There is confusion about the correct amount of Bhoodan land distributed to the landless and how much is with the samiti and who has possession:

- What happened to the confirmed Gramdan Villeges and to the land allotted to the individuals? The Bhoodan samiti lands are exempted from the operation of the OLR Act 9 sec 74(b).
- Who are the persons who own land but have no rights of Raiyat?
- How are they reflected in the ROR?
- Who will take responsibility for sorting these questions out?

Case Study: Matri Hikoka

Matri Hikoka is a Kandha from Podapadar village of Kakariguma Panchayat which is 46 km away from Koraput district headquarters. Matri Hikoka is a poor farmer who inherited only 1.5 acres of land from his father.

During the year 1976-77 he was allotted 2 acres of ceiling surplus land and in the same year a ROR was issued in his name. However, after 34 years he is not in possession of the land allotted to him which is in possession of the previous owner Mr. Meghanatha Bisoi of Kakariguma Panchayat. Meghanatha Bisoi belongs to Sundhi community and is a landlord in the area.

As the rightful owner of the land, Matri Hikoka tried to bring the land under cultivation soon after the allotment. However, being threatened by the previous owner he refrained. He waited until 1985, when he went to meet the then Tehsildar of Koraput Tehsil who assured him that all necessary help would be given to him by the government. Thus he again tried to bring the land under cultivation but Mr. Bisoi physically assaulted him and filed a false case against him. After the incident, Matri went to meet the Tehsildar again but the tahsildar had been transferred so Matri does not dare enter his field.

(In December of 2009 this case was presented in a public hearing on land organized by SPREAD before district administration).

In 1961 there was a violent movement by tribals against the exploiter landlord Hari Misra in the village of Balikhamar near Therubali in Raygada subdivision. Hari Misra was the Dewan of Kashipur Raja, from the coastal area, and all the tribal lands were under his possession. Tribals appealed with folded hands to him many times to return their land, without success. The matter went to the Court from 1952 to 1960 but without any result. In 1961 tribals forcefully occupied their land and when Hari Misra opposed it, the tribals killed him on the spot.

In the years 1967, 1999, 2000 and 2004 there were additional uprisings against powerful landlords, particularly in the Gudari area. The discontent became violent many times and there was tragic loss of life. Since the British period, the response of the administration to the uprising of tribals was to suppress them with power and violence and that practice is still followed today. Four mega-dams (Machhkund, Kolab, Chitrakonda and Indrabati) and two industrial projects (HAL and Nalco) added to the existing land issues of the tribals. The lack of land-to-land rehabilitation policy increased landlessness. Large-scale commercial

plantations such as cashew, eucalyptus (by JK and Mangalam timbers), and sisal on the common property resources and on the so-called encroachment land further alienated the poor tribals from their land.

Land Reforms Act

Due to uprisings and people's movements born of discontent, many land reform acts were enacted in the 1950s and 1960s. Among them are the Orissa Estate Abolition Act, 1952; Orissa Government Land Settlement (OGLS) Act, 1962; Orissa Prevention of Land Encroachment (OPLE) Act, 1972; OPLE Rules, 1985; Regulation 2 of 1956 as amended in 2002, Regulation 1 of 2000, Section 23 and 23-A of Orissa Land reforms Act (OLR), and finally the 1960 Distribution of Surplus Land. The ceiling laws came into force on 26th September, 1970, but as a practical matter the ceiling surplus land is not in the possession of the poor tribals in the area. The data available on distribution of ceiling surplus land in the Koraput district through the end of March, 2007 shows 131668.06 acres declared as surplus, 12797.88 taken possession, 11777.13 distributed to the 7999 individual out of which 4853 are Scheduled Tribes.

But if you will go into the field to verify who is in possession, you will find a different story. For example, there are 9 families in village Gaudaguda, 7 families in village Khajuriput, 2 families in Podagada, 9 families in Lendrimalguda, and all 8 households in Podapadar who are yet to get possession over the land allotted to them under the said law. The previous owners still enjoy benefit from these lands. The beneficiaries have requested resolution from the revenue authorities several times but no action has been taken.

Many such cases are pending with the judiciary and gathering dust on the shelf, poor people are unable to raise their voice for their land against the powerful and revenue officials are silent on the issue. The recent campaign "My land, my homestead" has proved to be little more than populist rhetoric which will not solve the land issues of Koraput region.

The Regulation 2 of 1956 was not strictly followed and an "unholy nexus" of vested interest groups caused a large amount of Scheduled Tribe land to be transferred to non-tribal people. There is also a problem of *benami* transactions and land mortgagees in the region. Recently, Koraput's district administration tried to review some of the cases but immediately the present owners succeeded in seeking a stay from the High Court. To compound matters, many lands have been transferred several times and the land now is with the fourth or fifth set of hands. Sadly, there does not seem to be any attempt to hold corrupt revenue officials and the original purchasers who participated in fraudulent land transfers accountable.

In 1951 the Agency Tracts Interest and Land Transfer Act, 1917 de-scheduled many hill tribal groups which made the tribal land situation much more complex. There are many groups who are Scheduled Tribes in neighbouring Andhra Pradesh but are general class in Koraput region. There was no strong voice among the tribals of Koraput at that time and despite the best efforts undertaken in 1951 this act became a big problem for the tribal people of the region.

Recording of shifting cultivation land

Shifting cultivation (*podu chasa*) is a common agricultural method in the tribal region and has become like one type of settled cultivation. In the ex-Jamidary and ex-Khalsa areas of Kalahandi about 1,26,245 acres of land involving 25,245 persons in 863 villages were recorded, in 1963 under kudki shasa. The persons were issued donger khasada (of 5 acres). The persons were also granted right of succession. During the settlement process in Koraput region recording of podu cultivation land started but suddenly in 1955 the board decided not to link the podu survey with the regular survey operation. Why cannot a similar procedure to be adopted in all tribal regions?

Ground realities are different from the idealistic spirit of legislations and schemes and the seeming rectitude of government records. Many studies have revealed that homestead land which was distributed to families is either unsuitable for homestead use or was never demarcated so families have the piece of paper but not the land. In the case of ceiling surplus land, regulation-2 and the OLR Act, the beneficiaries are denied their rights by powerful lobbies and the poor tribal and Scheduled Caste families do not dare to enter their newly acquired lands. The recent computerization of old land records without updating is not at all a step towards the resolution of land issues.

Political will is a crucial factor in the issue of land. The entire world over, where land reforms have been successfully implemented, political will has played the major role. Our state lacks it and so the problem remains entrenched. For the MNCs the government has a warm heart and open arms but for a poor tribal it finds its pockets empty.

Immigration started from the Kings period and large scale immigration occurred during 1932 and thereafter because of the opening of the Raipur Vizianagaram railway line. The inflow of immigrants into the region has increased pressure upon land issue in the area. This trend seems likely to continue with mining and other "development" activities. In this situation there is a need to have special protection and the political will to safeguard the interests of the tribal people, particularly land.

Recently the state government became very active after the Narayanpatna uprising but present initiatives of state government will not solve the regional land issues. The core land issue of the region is the redistribution of land and for this there is need for a new law with the political will to implement. The existing laws will not solve the issue.

This is the backdrop against which Koraput's adivasis joined in collective action to protest further land alienation and demand the return of lands that had been illegally transferred. Good intentions are everywhere evident, but effective implementation of laws to reverse the past injustices over land ownership, displacement and land alienation is required and new laws to fairly redistribute land are needed.

The citizens of India now need to ensure that good intentions become ground reality.

Recommendations

1. Political will and pressure from the people
2. Survey and settlement taken up immediately in tribal areas
3. Self-correction of RORs through mutation proceedings in camps with time-bound programmes
4. Royat status to tribals may be conferred on the tribals who are in occupation and enjoyment of hill slopes above 30 degrees
5. Bhoodan and gramdan land continuing under the occupation and enjoyment of donors identified and given to landless tribals
6. Executive orders, government acts requiring the revenue officials under the regulation 2, to initiate proceedings suo motto for restoration of illegally transferred land in time bound manner and punishment for the officials and other people involved
7. In order to ensure physical restoration of the land, government should create a special task force/ land restoration cell
8. Reviewing the Ceiling Surplus Land Act
9. All traditional customs of tribals be recorded and be codified
10. Survey and settlement of *Gramkantha Paramkob* land by government
11. Special courts/fast track courts for disposal of land cases
12. A single simple revenue code for the state
13. Land to land rehabilitation in case of displacement
14. Free access to land records and availability of all the land records at Panchayat level
15. Special power backed with act under PESA for illegal transfer of land
16. Amendment of Land Acquisition Act and defining the "Public purpose"