

**MICRO STUDY ON LAND ISSUE.
Done by SPREAD.Koraput.
For Revenue Dept. Govt. of Orissa.**

Introduction:

South Orissa and the revenue laws:

With the creation of the province of Orissa on 1st April, 1936 the new administrative unit inherited three sets of laws from Bihar and Orissa, Madras presidency and central province. Orissa became a melting pot for fusing together the various historical traditions. The Koraput district was under Madras presidency. The Madras Estate Land Act was in force in the undivided Koraput district.

Tribal land:

Tribal people have been living in most inaccessible, interior areas of Orissa state and utilizing land, water and forest for their basic survival. The nature of command over these resources depends upon their traditional customary rights. This sort of traditional right is recognized by tribal communities who are ensconced in a specific eco-niche. After independence the state govt. and govt. of India lay their claim over these resources as permanent power. The state lays its claim to areas of land which are unused or vacant. In context of tribal habitat, the rights to use these lands and their traditional systems sometimes made untenable by the statutory authorities. Traditional customary rights are not recognized sometimes by the state governments.

Land for others may be an object for agriculture but land for tribals is a part of larger socio economic structure of society, which is handed over from one generation to another as sources of life sustenance.

Tribal land holding Pattern:

Study of pattern of land holding among major tribes of the tribal sub plan area of Orissa delineates on 15 major tribal communities, such as the Kandha, Gond, Santal, Saora, Munda, Shabar, Latha, Kolha, Paraja, Bhotoda, Kisan, Oraon, Bhuiyan, Bhunjji, Bhatuadi and Kharia. The below table shows categories of land holding and the percentage of house hold.

Categories of land holding	% household
Landless House hold	22.68
Marginal farmers	53.47
Small farmers	27.65
Big farmers category -I (5.1 Acres to 7.5 acres)	8.28
Category II(7.6-12.5)	7.62
Category III(12.6 to 25)	2.88
Category IV(25 to above)	.46

The average size of land per marginal Farmer is 1.36 acres and it is 3.7 acres for smaller farmer. The per capita land holding has been estimated at 2.34 acres (Mohanty-1993). The working group "on development and welfare of ST" during eighth plan (1990-1995) stated that the number of operational holdings of ST in

Tribal Land alienation:

In the process of land grab by the non tribals and the state, the innocent tribals have been affected more. In order to meet their dire necessities, the tribals become easy prey of mortgaging their land to non tribals. With the opening of tribal areas to non tribal people, land of the tribals has become a marketable commodity. The state in the name of development continues to acquire land, over which tribals has a stake, in a large measure.

Distribution of Operational holding:

As per the Agriculture census reports, the distribution of operational holding among Dalit and Adivasis are as follows-

	Dalit	Adivasi

	Number %		Area %		Number %		Area %	
	1981	1991	1981	1991	1981	1991	1981	1991
Orissa	12.17	13.70	7.86	8.60	27.58	26.60	29.90	28.70
India	11.31	12.50	7.03	7.10	7.71	8.10	10.20	10.80

Source; Land for life- NCAS,2002

The dalit and adivasis together occupy 37.3 of the land as in 1991 which is higher than the all India figures. Of course there has been a decrease in the operational holdings since 1991.

The land reforms system operative in tribal areas of the state:

Land tenure system in modern Orissa has a variety legacy. From 1936 to 1948, Orissa consisted of six districts and undivided Koraput was part of it. This region had two types of land administration system, *royatwari*, and *muthadari* system. The land system of tribal regions of Orissa varies from areas to area due to historical factors. Merger of 24 Feudatory states with the modern Orissa after independence has influenced the land related laws of the tribal communities.

The situation of tribals of Koraput region

The British occupied the undivided Koraput district in 1863 and did not take much interest in the land of the district. The district followed similar pattern of land policy as prevalent in Madras Estate land act, 1908 largely influenced it. The Government only initiated land record right during 1940. The tribals of Koraput district being induced by money lenders and other non tribal people alienated their land holdings at cheaper prices. In spite of the promulgation of Agency Tracts interest and Land Transfer Act, 1917 its effect in the Agency tracts was not satisfactory and the extent of land alienation of tribal was not reduced. This Act has been amended by the Govt. of Madras presidency in 1918, 1927, 1931, 1932. This was also amended by Govt. of Orissa in 1943. The transfer of tribal land to non tribals in the undivided Koraput district was not considered illegal.

Prior to the enforcement of the regulation, 1956 in Koraput the agency Tracts Interest and land transfer Act, 1917 was enforced.

The Orissa Schedule areas Transfer of Immovable property (by Scheduled tribes) 1956 ,regulation -2 which restrict the transfer of tribal land to the non tribal in scheduled area was first introduced in the state in 4.10.1956. The same act was further amended in 1975, 1997, 2000. But another Land act that is Orissa Land reforms Act, 1960 was not amended in light of the 1956 regulation.

The right of tribal women over land:

Land is primary basis for wealth, status and power. Access to land is therefore a critical factor which determines how wealth, power and status are distributed within the society and household. This is more so in the rural areas where land decides power relationship. On the other hand landlessness erodes social status and makes people economically vulnerable and mentally insecure. Land rights for women is a necessary precondition for their empowerment. To women land rights do not just imply control over a piece of object called land but it has tremendous social, cultural and economic implications. It can be a security against abject poverty, a means to access credit, technology and other services, the capacity to challenge male oppression and domestic violence or even can be a symbolic sense of identity, ownership and control are critical in the context of gender.

The land Acts and Women

Orissaa has many acts on land though formulated on the so called basis of redistributive justice, has totally ignored the concept of gender justice and not taken into account the gender inequalities. No law has been formulated to increase women's access to land.

Customary rights on land and tribal women.

Widows in Kandha Community, inherit the land when they have no grown up sons, Among the saoras, the property is divided between daughters and sons, the unmarried daughters getting an equal share and married daughter a lesser share. Among most tribals in Orissa , women have the right to maintenance but not land. Widows usually have usufruct rights.

Policy of Govt on Women joint patta holders:

Ceiling surplus land and Govt. land which is given for homestead/ or agricultural purpose to landless persons are to be registered in the name of both husband and wives. Notification for enforcing this has been issued by the department of revenue gov. of Orissa since 1989. The latest circular on this subject has been issued to the District collector in June 2002. But there is no data available how many joint patta issued in the state.

Allotment of 40% Govt. land to women.

Allotting at least 40% of Government land to women is an objective of the National Perspective Plan for women 1988 – 2000 based on the commitment of the 6th Plan, recommendation of the Sub group on the working group on land reforms for the 7th Plan and the recommendation of the Revenue Ministers conference held in 1985. Along this line. The Govt. of Orissa in October 2002 decide that at least 40% of the Government wasteland allotted for the agriculture and house site purpose, ceiling surplus, land and Bhoodan land may be allotted to widows, unmarried women, victimized women and women living the poverty line as far as practicable. While distribution government land members of SC / St may be made as per rules, at least 40 % land should be allotted to women belonging to SC / ST. data on actual application on this provision is not available.

The survey & settlement in Koraput district.

After the creation of Orissa, the Govt. ordered a survey and record of rights operation in 1938 in koraput region. The operation was suspended during the war emergency and was revived there after. It was concluded in 1964 in the koraput region. After that there is no fresh survey and settlement done for the area.

The unsuitable method of survey & denial of land rights to people of koraput region.

Sri. N. C Behuria, who was survey and settlement officer for major survey in koraput district has pointed out in his settlement report that "though the plane-table method of cadastral survey which has replaced the earlier chain- survey method was much cheaper, it was unsuitable for hilly terrain." In this method the details of land use beyond 10 per cent can not be correctly recorded. Apart from the constraint of technical nature imposed by the method of survey in the matter of correct measure of land, there was policy decision of govt. as a result of which the preparation of record of rights turned in to denial of rights above the 10 percent , which were enjoyed by the concerned population for generations. The plots above 10' slopes were kept as Hill blocks divided into Ac. 40 patches and assigning different plot numbers for each patch and included in govt. khata. These plots are imaginary plots and un-surveyed area. Till today there is no attempt from Govt. to survey these Hill slope above the 10' slope of the high hills which is the main source of earning of many tribal people. In this process the tribals lost their rights on the land cultivated from generations together.

The Study area.

The study was designed for one revenue village. Spread tried to conduct the study in a near by village to Koraput town and besides the National High ways with an objective that the study will reflect the real picture as more transaction of land was undergone from tribals to non tribals in this area. So Spread selected the village chapar under the Koraput Tahsil, which is three kilometers away from the koraput town towards the jaypore.

The team went for a five day long process in the village chappar under the Umuri RI circle . The team have found out that there are cases of distribution of ceiling surplus land, distribution of homestead land , and a large no of land transaction from tribals to non tribals. The Records from the tahasil or from the RI circle were not available to the team for the study.

within the five days the team found that there are 17 person got the homestead land patta but the location is far away from the village and it is a Hill slope land and not suitable for homestead land. No body has constructed the house and no individual demarcation was done. One land less person got the two acres of agriculture land from the sealing surplus land but now he is again landless after saling that land in just Rs. 3000. As the village is closer to the koraput town and the national highway many outsiders from the koraput have purchased land from this village.

After five days of interaction with the villagers the news of the study was reached to the vested interest group by some means and few nontribal disturbed the process, it was virtually impossible for the team to complete the study within the specified time frame. So Spread decided to do conduct the study in its operational area where there will be active participation form the community members. So SPREAD selected the village Guneipada of Machhkund Tahsil.

Study Village

Name of revenue village : Guneipada

RI Circle : Guneipada

Tahsil : Machhkund

There are 8 hamlets

1.Matamput,2.Bayaput, 3.Tikasameli, 4.Bijaguda, 5.Raginguda, 6.Baunsauda,7. bairipada, and 8.badaligudai.

Population

The 8 villages consist of the 413 house hold. Among them ST 170, sc 113, OBC 110 and general are 20.

- As per the data available in the revenue dept web site there are 363 khatas, 609 tenants, 1224 plots,.

Non availability of official records (ROR)

Thought the team contacted the DM, Tahasildas, RI repeatedly, till today the official records are not available to the team for the study. So the team decided to go ahead with the study with the records available in the website of the revenue department (bhulekha).

The process

- The records were down loaded from the website
- Village meeting were conducted on the objectives of the study
- house hold visits
- verification of their available records with the downloaded material.
- Comparison with the cadestrial maps
- physical verification of the few plots.

FINDINGS

From the 9 habitats, till 4th of December the team has completed 4 villages. (Guneipada, Matamput, Bayaput and Tika samlei). The findings are from these four villages.

Homestead land

- 1) In 4 villages 55 families have got the homestead land patta from the govt. in two phases 1976 11 families, and rest in 1998
- 2) Out of 55 families ST are 30, sc are 14, OBC are 9 and general are 2.

Name of villages	ST	SC	OBC	General	Total
Guneipada	7	9	1	1	18
Matamput	11	4	8	1	24
Tika sameli	11	2	-	-	13
Bayaput	-	-	-	-	-

- 3) 24 house hold have constructed houses on their demarcated land which was inside the village site.
- 4) Only one person has got he Indira Awas Yojana support from the govt.
- 5) 31 families have seen just the location of land but their land has not been demarcated individually. At the same time the land is far away from the village and not suitable for the house construction.
- 6) In 2 villages the type (kisama) of land (the pahada kisama was converted to basti land and it was given to them) though the record shows that there are basti land available in the viallge and near to the village plot.
- 7) 8 families have got less than the 4 cents.
- 8)1 family have got only 1 cent (village Tikasamli, Mangla khilo)
- 9) one family (aaita khilo from Tika sameli) have got 2 homestead land patas (1n 1976, 2 cents , and in 1998, 4 cents)
- 10) The plot where the homestead land was given in the village Guneipada other people are cultivating that land.
- 10) 6 non tribals have purchased the agricultural land from a tribal Buda badanayak from the village Matamput (total .99 cents and they have converted the land in to Gharabari). The permission letter and the sale deed was not available to verify whether the transaction was legal or not.
- 11) The entire village is under the Gram Kantha Paramboke Land & there is no individual owner ship over the GHARA & BARI. There was no survey of such area.

Agricultural land

- 1).13 non tribals have purchased 4.80 acres of land from 5 tribals between 1984 to 1997. The permission and other documents were not available to verify whether the transaction is legal or not. The records of voluntary declaration by non tribals were not available to verify. AS per the tribals they have sold the land for Rs. 1500 per acers.
- 2) 3 tribals have mortgaged 2.58 acres to two non tribals since last 40 to 50 years.
- 3) There is mismatch between the ROR & rent receipt extent for two families. The rent receipt shows less than the ROR and the families are saying that they have not sold the land. The detail records are not available to ascertain the exact cause.
- 4) in one family the rent receipt shows different name than the khatadar(55.85 acers) continuously for three years. The exact reason is not known due to non availability of ROR from Tahsil.
- 4) 36 families are cultivating around 40 to 50 acres of govt. land since last 40 to 50 years but whose land have not been settled. They are paying the encroachment fine to the revenue dept.
- 5) There are 58 land less families
- 6) The encroachment fine receipt do not show any kahta no, plot no, extent.
- 7) All families have joint patas and mutation has not been done among the legal heirs . And this has created lot of disputes among the members.
- 8)Only one family have mutated their land among their legal heirs but they have spent Rs. 10,000 in process.
- 9) 20 people have lost their ROR.
- 10) 40 families got the tree pata (80 acre)of cashew plantation in the year 2005 but the land has not been demarcated. In the year 2006 the same land was auctioned by the Orissa Cashew Development Corporation to a different person. There was dispute between the tender holder and the tree Patta Holder. The ROR doses not show any record in the name of Orissa Cashew Development Corporation. There is a question how without the record of rights the OCDC is giving tenders since last 10 years.
- 10) 22 families have got 46 acres of coffee tree patta and they have the possession without any dispute.

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