

## TRIBAL AND LAND ALIENATION IN ANDHRA PRADESH

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### ABSTRACT

*This paper presents the problem of tribal land alienation in the Scheduled Areas of Andhra Pradesh. The paper examines the causative factors for tribal land alienation and its varied dimensions. Historically, tribals have had a rich cultural linkage with the natural resources. The cultural landed relationship, however, was altered or even eroded on the arrival of the non-tribal settlers from plain areas. Their entire life process was centered and built upon two major means of production, i.e., the forest and the land, both land and forest lands slipping from their control due to multiple interventions. Historical evidences reveal the uneven structural changes that have taken place from time to time due to the commoditisation of the tribal economy in which land plays a critical and predominant role. This paper argues that the laws which have been promulgated to protect the tribal land interests are not effectively implemented resulting in external appropriation of tribal lands in the Scheduled Areas.*

### Introduction

Scheduled Tribes (STs) account for 8.6 per cent of India's population. Thirty five tribal communities are notified in Andhra Pradesh as STs and their population is about 59.18 lakhs as per the 2011 Census reports. They constitute 7 per cent of the total population of the State. The Tribal Sub-plan area extends over 31,485.34 sq. kms. in the districts of Srikakulam, Vizianagaram, Warangal, Visakhapatnam, East and West Godavari, Khammam, Adilabad and Mahaboobnagar districts constituting the traditional habitat of nearly 30 tribal groups. The tribal groups of Yerukula, Yanadi and Sugali or Lambada live mainly in the plain areas outside the Scheduled Areas.

The question of land tenure has been a pivotal and sensitive political issue in the context of Scheduled Areas<sup>1</sup> of Andhra Pradesh.

Agriculture continues to be the main source of livelihood for majority of the tribals. However, large tracts of tribal land are concentrated in the hands of predominantly elite non-tribal sections of society. Consequently, tribals are marginalised and deprived of their traditional land rights. The alien systems of land tenure introduced during colonial times have had far reaching adverse effects depriving tribals of their dignity and their access to land. Thus, the alienation and restoration of adivasi land and land rights has been one of the most complex and sensitive issues in Andhra Pradesh.

Over the years, the adivasis have witnessed continued dispossession of both individual and community control over their resources. The continued alienation has not only intensified their poverty but also seriously threatened their identity in their own homeland.

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Issue of tribal land rights has not yet received adequate attention due to multi-dimensional nature. It seeks to understand the political, administrative and legal dimensions of the land alienation problem in different land tenure systems.

### Methodology

This research study paper is to understand historically the causative factors for tribal land alienation, and analyse the administrative, politico and legal dimensions of tribal land deprivation and rights issue. The paper seeks to find out ways to minimise land conflicts between tribal and non-tribals and tribals and the State in the tribal areas.

Denial of the land rights to tribals is essentially due to the introduction of an alien legal system which marginalised tribes and led to the uneasy relations among the various social groups living in the Scheduled Areas. And present policy, legal and administrative measures perpetuate land alienation and denial of land rights among the tribal people.

The method of the study was based mainly on both primary and secondary sources. Primary sources included examination of court judgments and land records while secondary sources included Governor Administration reports from Commissioner of Tribal Welfare, and Tribal Culture and Training Research Institute (TCRTI), Hyderabad, libraries of Centre for Economic and Social Studies (CESS), University libraries etc.

### Approach to Understand "Alienation"

The 'alienation' of humankind in a fundamental sense refers to the loss of control. When Marx analysed 'alienation' in his Economic and Philosophic Manuscripts of 1844, he indicated four principal aspects - the alienation of human beings from nature, their own productive space, as a member of the human species and from each other<sup>2</sup>. Alienation, in the Marxist conception of man in the capitalist

society, is the process that facilitates the exploitation of many by a few<sup>3</sup>.

Seen from the tribal point of view, tribals may be thought of as an alienated group. They suffer from several forms of alienation, since, 'in a system of cumulative inequalities, privileges, property and power are combined in certain individuals while the socially underprivileged are economically and politically deprived'.<sup>4</sup> Alienation of land itself, however, constitutes just a small component of this entire process of alienation, albeit an essential one. It is therefore, imperative to view this single phenomenon, within the holistic context of tribal existence and tribal cultural ethos<sup>5</sup>.

The 'alienation' of tribals from their traditional habitat is caused due to the policies of the State. The process of induction of non-tribal population into these Scheduled Areas was expected to bring progressive assimilation of the local tribals into the new socio-economic order of the immigrants, while raising their income, productivity and standard of living. 'However, often the outcome has been contrary to the above expectations, reducing the share of tribals in the gross regional product, substituting one institutional exploitation by another, uprooting them from their native land and reducing them to the status of aliens on their own soil.'<sup>6</sup>

In the early years of the 20<sup>th</sup> century, many tribal communities lived, by and large, freely, in pre-capitalistic socio-economic formations<sup>7</sup>. This is because the community ownership of land in India was not commoditised prior to the British rule. Tribals in their pre-capitalistic socio-economic formations had not regarded land as a commodity as it was freely available to them for cultivation. Thus, the concept of alienation with regard to the problem of land alienation in tribal areas can be understood in relation to the concept of private property relations, commoditisation of the

means of production as land, labour and capital and the very process of penetration of the private sphere by the State capital. Hence, the historical and theoretical connotations of the concept of alienation as propounded by Marx hold relevance in the case of India as far as the tribal communities and their land problems are concerned.<sup>8</sup>

### Tribal Identity and Land Rights

Tribals share a symbiotic relationship with natural resources. Agronomic practices and their relationship with land are based on the nature-man-spirit complex and sustenance of the economy which is unique to tribal cultures in many parts of the country.<sup>9</sup> Traditional communal land tenure systems continue to exist even where formal land tenure systems emphasise on individual property rights.<sup>10</sup> In the predominantly agricultural societies, the importance of land cannot be over-emphasised. It is a symbol of security, the main source of income and wealth, as well as of social, political and economic power. 'The land tenure system reflects social class structure and class relations, as they represent an array of legal, contractual or customary arrangements whereby people engaged in cultivation gain access to productive opportunities linked with land and thereby income.'<sup>11</sup>

The British legal concept of individual private property destroyed the tradition of collective ownership and sharpened tensions within the Adivasi society while eroding their relationship with nature. These same tendencies are visible today in various developmental policies that are being implemented in the country in the post-Independence era. It is the primary cause of conflicts between the tribals and the larger non-tribal society. The entire worldview of Adivasis is situated around their land. They cannot imagine their physical existence apart from it<sup>12</sup> and therefore, eviction from their land or encroachments by outsiders has resulted in resistance and even armed

struggles in Andhra Pradesh ever since the British era. There have been and continue to be, several rebellions across the country. Prominent among them in Andhra Pradesh are Alluri Seetarama Raju's armed resistance in Visakhapatnam Agency and the Gond Rebellion<sup>13</sup> led by Komram Bheem in Adilabad Agency in Nizam State. The Rampa Rebellion (1922-23) from East Godavari to Vizianagaram under Alluri Seetarama Raju was in protest of the Madras Forest Act of 1882 which placed restrictions on the free movement of tribals in the forest areas and prevented them from engaging in their traditional practice of Podu or slash and burn cultivation.

Post-Independence, tribal unrest has been primarily on issues relating to restrictions on *Podu* cultivation and encroachment of non-tribals in large numbers into Agency areas (tribal areas), posing threat to the existence and identity of tribal society.

### Non-tribals and the State in Scheduled Areas

Land of the tribal communities in this region has been taken away by the non-tribals who have penetrated the region for economic gains. The penetration of non-tribals was aimed at gaining access to forest and land to exploit them as economic resources, mainly for the market, thereby undermining the traditional subsistence economy and society of the tribals.<sup>14</sup> This penetration was engineered by the British to serve their own colonial interest. Otherwise, there was no reason as to why a mass of non-tribal people should suddenly begin encroaching upon tribal land, something they had not done in the past. The newly imposed British land system was radically different from that prevalent among many tribal groups.<sup>15</sup>

The colonial period witnessed a progressive and aggressive monetisation of the economy of the tribal region for revenue generation, making dependence on the forest ever more precarious and thus destroying tribal

self-reliance. Moreover, as the forests were taken over by government agencies and commercial interests, the tribals were forced more and more to live by farming the land, where they were progressively pushed into bonded labour by exploitative landlords, moneylenders, government officials and other outsiders. The creation of private property rights over land was an equally disastrous break with tribal tradition in which land was always held by the community even when it was assigned to private use.<sup>16</sup>

The first phase of migration of non-tribal peasants from the plains occurred around 1820 when a number of *zamindaris*, either whole or in part, came into the auction market and the highest bidder got the rights of ownership. This auction process was initiated to raise revenue. But it paved way for the non-tribals to infiltrate tribal areas. The administration made further steady inroads for the control of the productive resources of the tribals by passing forest laws in 1882 and *abkari* laws in 1864. These laws were meant to regulate the forest usage and consumption of toddy or alcohol.<sup>17</sup> The Godavari River facilitated the movement of non-tribals from the widely populated plain areas of East and West Godavari to the sparsely populated tribal areas, by country craft, mechanised boats and launches.<sup>18</sup> Towards the end of the nineteenth century, the British began leasing out the rights to extract bamboo and timber from the forests on both sides of the river to the non-tribal merchants of Rajahmundry. When motor boats were introduced in the second decade of this century, a larger number of merchants and their agents moved into these settlements.<sup>19</sup>

The huge influx facilitated further opening up of tribal areas intensifying the demand for land for diverse purposes—housing, infrastructure, business and social utilities which further led to the dispossession of the tribals. For instance, if one travels by road through the long stretch from Bhadrachalam in the Khammam district of Andhra Pradesh to Raipur in

Chhattisgarh, a distance of about 550 kms and almost entirely a Fifth Schedule region where tribal land may not be sold or passed on to the non-tribal people, yet, one can see that most of the shops and land along the roadside are owned or occupied by non-tribals. This blatant encroachment upon tribal land is overlooked by a largely non-tribal government that accepts tribal people's displacement as a precondition for development.<sup>20</sup>

Yet, another form of land alienation is when the States promote development projects as hydroelectric power stations and mining and industries. These developmental activities do not confer any benefit on the tribals directly and render them landless.<sup>21</sup> The construction of irrigation dams and industrialisation are the major reasons for massive and irreversible deforestation and subsequent land loss of the tribal communities. In the last sixty years, in the new era of development, tribal communities have been displaced on a large scale. Displacement has taken place as an offshoot of the economic development by the State itself, and, in particular, its industrialisation and irrigation policy.<sup>22</sup> For instance, there are 18 major dams in Andhra Pradesh and six of the large ones alone have been responsible in displacing about half a million people. The proposed Indira Sagar Project (Polavaram) threatens involuntary displacement of 2.37 lakh people from 276 villages in the Scheduled Areas of Andhra Pradesh, 55 per cent of them being tribals. It will result in the submergence of 94,357 acres of land situated in the Scheduled Areas, of which 29,852 acres are *poramboke*. In addition to this, the Polavaram Project will submerge 3,223 hectares of forest.<sup>23</sup>

Tribals suffer from physical displacement in several parts of the country due to development projects initiated by the

government.<sup>24</sup> Displacement among the tribals is on a massive scale and often with adverse implications on the communities, mainly due to laws that do not recognise the communal and customary rights of tribal people over their territories. Resettlement literature is replete with case studies on development projects that ignore the customary rights of the tribal people and treat them as illegal occupants of government land. Such an approach invariably leads to the impoverishment of once well settled communities; precisely the opposite of what development promises.<sup>25</sup>

### Loss of Tribal Land During Land Survey Operations

The process of land alienation traces back from the management of land administration by the proprietors of different land tenures in the Agency Tracts. The process of decision making at the land tenure institutions for the fiscal revenue purpose during pre and post-Independent era has become a death note on the survival of tribals, as the policy invited non-tribals to gain access to land, affecting the local tribals' land use and tenurial relationships. The policy adopted by the rulers encouraged the non-tribals to immigrate in large numbers and settle down in the Scheduled Areas. The British Government permitted *Zamindars* and the *Mukasadars* to take hold of the land administration which led to the slipping of land from the hold of the tribes to the non-tribals. The tribal chieftains of muttas adopted diverse methods to transfer land to non-tribals after which the tribals were deprived of their land.

After abolition of intermediary land tenure systems like *Mutta*, *Mukasa* and *Zamindari* Systems, survey and settlement operations work was undertaken in the Scheduled Areas of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Nugur and Bhadrachalam taluks of Khammam district of the Andhra region.

The survey and settlement operations are covered by Andhra Pradesh Regulations 1/69, 2/69 and 2/70, to settle the land occupations of both the tribals and non-tribals. Three tenures, viz., *Malguzari*, *Muttadari* and estates prevailing in these areas were converted into *ryotwari*. The intermediaries *Mahaldar*, *Muttadar* and *Zamindar* between the government and ryots were abolished.

All the Settlement Regulations referred above in fact dilute the letter and spirit of Land Transfer Regulations 1 of 70 by enabling non-tribals to claim *patta* over land situated in the Scheduled Areas, in effect negating the presumption that unless and until proved contrary, the land in occupation by non-tribals would be deemed to have come from the tribals through a transfer.

The Expert Group on Prevention of Alienation of Tribal Land and its Restoration, Ministry of Rural Development, Government of India, headed by the Planning Commission Member, B.N. Yugandhar has also cast a serious doubt on the settlement *patta* throughout Schedule Five areas. Similarly, the denial of *pattas* to the tribals is the other side of the coin of Settlement *pattas*, which calls for a scrutiny of the rejection orders.<sup>26</sup>

As per the 1990 Report of Neerabh K Prasad, an IAS Officer, entitled 'Protection of Tribal Land' in the Settlement Regulations 2/69 and 2/70, it has been stipulated that the non-tribals had to prove eight years of continuous possession of land prior to 1969 and 1970 and an absence of any prohibited transfer as per Land Transfer Regulations, to be eligible for a grant of a *patta*. Further, it states that norms were openly flouted by the non-tribals. False receipts were created by the *mutta* clerks or estates clerks showing payment of taxes. The tribals were driven out by creating terror through organising police raids, thus making it convenient for the non-tribals to get the tribal land measured in their names. In a specific case at Nelakota village

of East Godavari district, the village abuts a huge inland tank by the name of Ramavarapu Ava and gets irrigation from the same. The non-tribal residents of the adjacent villages, especially Ramachandrapuram, dubbed the tribals as naxalites (post-1969 Srikakulam Naxalite Movement period) and organised police raids. The tribals had to flee from the hill tops and stayed there for more than a month. This period was used by the non-tribals to get the land surveyed and settled in their favour. Land with rich forest growth was taken as *patta* even though tribals were never in occupation of the land; obviously with an eye on the rich timber. The cases of Jangalthota and Chintalpudi of Y. Ramavaram Mandals of East Godavari are glaring examples of these. The tribal claims were never properly examined and were largely unaware of the settlement operations. By the time the tribals realised that their land was being granted as *pattas* to the non-tribals, it was too late for an appeal. As a result of these dubious measures, the landholdings of the non-tribals jumped from 9,805 hectares before 1969 to 16,789 hectares by 1976 in the Scheduled Area of East Godavari district.<sup>27</sup> The non-tribals in three Agency mandals of West Godavari district hold *pattas* for over 53,719 acres, while tribals have *pattas* for over 37,042 acres only in the Scheduled Area as per the Minutes of the Cabinet Sub-Committee circulated on 24 July 1997:

Just before the abolition of the Estates, the land holders accelerated issuance of *pattas* in several cases even with regard to the wasteland in the estates by receiving paltry sums. So the Settlement Officer is directed to reopen all the *pattas* that were granted till now under the provisions of Ryotwari Settlement Regulations 2 of 1970, observed by Justice B.S.A. Swamy while dealing with a case in relation to land disputes in West Godavari District Agency Areas.<sup>28</sup>

In Bhadrachalam division in Khammam district, 8,297 non-tribals were granted *pattas*

for 29,554.16 hectares according to the Report of Secretary to Government (1992). Expressing concern over the grant of *ryotwari* settlement *pattas* to non-tribals in the Scheduled Areas during the survey period, the Secretary to Government, Govindarajan (1992) reports:

Two cases have come to the attention of the Government during the course of verification by special officer for survey of tribal land and assignment to tribals in Khammam district in the month of July 1990. In one case five non-tribals were granted *ryotwari patta* in respect of an extent of 30 acres of land while the tribals are in possession and enjoyment of the said land. In another case, non-tribals have obtained *ryotwari pattas* in respect of an extent of 101 acres whereas the tribals are in continuous occupation and enjoyment of the said land.

During 1996-1997 when land disputes erupted in tribal areas of West Godavari district, one of the major contentions of the tribals was that they should be given possession of land as per the 1902 Resettlement Register (RSR) and the non-tribals who were occupying land classified as tribal or government in the 1902 Resettlement Register should prove that they had got hold of the land in a legal manner. The Resettlement Register of 1902 is currently not even available with the offices of the Commissioner, Tribal Welfare or the district.<sup>29</sup> Thus, large scale manipulations during the Survey and Settlement period of 1970-76 led to grant of land entitlements of tribal land as settlement *pattas* in the name of non-tribals.

### Historical and Legal Perspective of Tribal Land Laws

The historical and legal perspective is that land in the Scheduled Areas once belonged to tribals. Until and unless the contrary is proved, the land in occupation by non-tribals shall be deemed to have come through a transfer from tribals. So the burden of proof lies on the non-tribals to legally prove that the land in their

possession had been with them even prior to the Andhra Pradesh Agency Tracts Land Transfer Act of 1917, which restricts land transfer between the tribals and the non-tribals. The tribals have customary boundaries to the village and land is a community asset rather than an individualised economic asset. The object of the Fifth Schedule and the Land Transfer Regulations is to preserve tribal autonomy and their culture, to help in their economic empowerment, to ensure social, economic and political justice for preservation of peace and good governance in the Scheduled Areas. The word 'regulate' in the allotment of land to members of STs in the Scheduled Area must be read as an endeavour to ensure regulation of the land only for and among the members of the STs in the Scheduled Area.<sup>30</sup>

In 1917, soon after a two-year long hit-and-run tribal insurgency in the Godavari Agency, the British enacted the first Agency Tract Interest and Land Transfer Act, to prohibit land transfers between hill tribes and non-tribals without prior permission from the District Collector. Subsequently, Land Transfer Regulations 1 of 59, as amended by 1 of 70, were made. Despite these being in force for long, 56 per cent of the cultivable land in the Scheduled Areas (about 8.7 lakh acres) is owned by the non-tribals<sup>31</sup>, while the extent of land restored to tribals under these enactments is only 9 per cent of this area (about 80,000 acres). And, if anybody can ever manage to estimate the extent of agricultural land that is supposedly owned by tribals but in reality is being held and cultivated by the non-tribals, then these statistics would reveal an even more unequal state of affairs.<sup>32</sup>

There is another important legislation in respect of lands in the Telangana area of the State. The Andhra Pradesh (Telangana Area) Tenancy and Agricultural Land Act of 1950 classifies all tenants into ordinary and protected tenants. The Act further stipulates that if the tenant personally cultivated the land continuously for a period of six years during a

stipulated period, he shall be deemed to be a protected tenant. As a protected tenant he reserves the right to purchase the land from the owner. This Act was also in force in the tribal areas of Telangana region. The non-tribals who gained access to land from tribals through clandestine and dubious methods were protected by the legislation. There was no law strictly prohibiting the transfer of land between tribals and non-tribals till 1963 in the Telangana region barring a revenue division Bhadrachalam in the Khammam district. The land reforms which were introduced by the State of Andhra Pradesh protecting the tenancy was made applicable to tribal areas without taking into cognizance the tribal interest.

The greater part of land alienation occurred after the 1940s. There are several loopholes in the existing Land Transfer Regulations 1 of 70. For instance, the law does not act retrospectively and thus cannot be applied to land transfer deals between the tribals and the non-tribals prior to the enforcement of the Act. Therefore, the exploitative relations in Agency areas still dominate the social structure. Hence, the problem of land alienation becomes part of the bigger problem of the existence of unequal class relations between the tribals and the non-tribals in the present day society.<sup>33</sup>

The *suo motu* power given to the government to proceed against non-tribals without waiting for a complaint from a tribal seems to be an ideal arrangement, but in the given administrative culture, it has perhaps been more of a boon to the non-tribals than to the tribals. In proceedings taken up *suo motu* by the government, the non-tribal faces only the government. The government does not take the trouble of finding out who among the local tribals may have a claim to the land. It does not publicise the enquiry in the village. The officer hearing the cases, designated as Special Deputy Collector, merely looks into the documents provided by the non-tribal, and if they appear reliable, he approves the right of the non-tribal over the land.<sup>34</sup>

Of 76,762 cases covering an extent of 3,39,699 acres of land, 74,973 cases covering an extent of 3,32,852 acres were disposed off by the SDC Courts in the State of Andhra Pradesh by the end of January 2010. The courts decided 36,512 cases covering an extent of 1,43,683 acres of land in favour of the tribals. However, the enforcement machinery set up under the Regulations could only restore 1,22,011 acres of land pertaining to 30,905 cases out of a total of 36,512. On the contrary, the non-tribals were able to secure orders in their favour in 38,461 cases and retained 1,89,169 acres of land in their possession.

Table shows that the success rate for land acquisition is 49 per cent in the case of tribals, and 51 per cent in the case of non-tribals. Tribals were able to regain land possession from non-tribals only to the extent of 43 per cent of the total extent of land, covered by cases disposed off, while the non-tribal could retain 57 per cent of the disputed land. Due to the failure of the implementing machinery in implementing the orders passed by the SDC Court in favour of the tribals, only 85 per cent of the total cases were disposed off in favour of the tribals, and only 85 per cent of land extent was physically handed over to them. This shows the failure of the administrative machinery in executing orders passed by the court in favour of tribals. The non-tribals continued to possess land even when the eviction orders were passed against them.

According to the Koneru Ranga Rao Land Committee Report, 'Every year more and more land is passing into the hands of non-tribals and if not checked with a very strong executive force, very soon the tribals may not have any land at all.'<sup>35</sup>

The Scheduled Areas is to ensure justice to tribals, their survival and livelihood. But as K. Balagopal pointed out:

'It is not enough if a disadvantaged class of people are endowed with legal rights. Legal instruments created for the benefit of the socially

privileged can be expected to find their way to implementation without anything else. This is not the case with legal rights enacted for the benefit of the disadvantaged.'<sup>36</sup>

Thus, the loss of private holdings by tribals, despite a number of laws being passed by both the pre-colonial as well as post-colonial state to check land alienation, has been a cause of concern. These laws had many shortcomings and were unable to check the transfer of land from tribals to non-tribals.<sup>37</sup> Even where legislation is designed to protect tribal land interests, such as restricting alienation of tribal land or ensuring that tribals receive the benefit of land tenure reforms, the results have been disappointing.<sup>38</sup>

### Extent of Tribal Land Dispossession

Dispossession of land for a variety of reasons is evident, including for mines, industries, hydro power, and irrigation projects resulting in both direct and indirect eviction of the tribal communities.<sup>39</sup> The decline in the percentage of cultivators among the ST households from 45 to 35.4 per cent during the period 1994-2005 indicates the loss of land and their increasing dependency on agricultural labour which increased from 37 to 43.7 per cent during the period 1994-2005. The percentage of population depending on agricultural labour increased only in the case of STs, while it has declined for the Scheduled Castes.<sup>40</sup> Even the existing landholdings of the marginalised have been alienated, in spite of score of laws in force for ensuring protection of the land rights of the marginalised, especially the Adivasis.<sup>41</sup>

Had history been otherwise, nearly 5 lakh tribal families living in the Scheduled villages of Andhra Pradesh would have presently together been the proud owners of 18,48,209.30 acres of land with an average household landholding of 3.69 acres. But instead, presently more than 48 per cent of this land is cultivated by the non-tribals. In some districts as Warangal, Khammam and Adilabad, more than 50 per cent of the land

Table 5: Outcome of Cases under LTR at SDC Courts as on 31 January 2010

S. District No.	Cases detected		Cases disposed		Cases decided in favour of STs		Cases decided in favour of non-STs		Land restored to tribals		Balance cases at the end of the month (col. 3-5 & 4-6)	
	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
1. Srikakulam	462	1100	453	1024	296	538	157	486	250	522	9	76
2. Vizianagaram	1364	7544	1343	7501	955	5631	388	1870	850	5498	21	43
3. Visakhapatnam	5708	22731	5480	22087	4359	17721	1121	4366	3029	13944	228	644
4. East Godavari	8485	49637	8264	48768	3751	19667	4513	29101	3392	17685	221	869
5. West Godavari	11611	62121	11477	60820	2584	11082	8893	49738	2451	10081	134	1301
6. Khammam	33582	126713	33325	125834	15514	52192	17811	73642	12750	41662	257	879
7. Warangal	7289	15784	7052	15218	4865	8964	2187	6254	4865	8964	237	566
8. Adilabad	8245	54008	7564	51543	4175	27839	3389	23704	3305	23606	681	2465
9. Mahabubnagar	16	61	15	57	13	49	2	8	13	49	1	4
Total	76762	339699	74973	332852	36512	143683	38461	189169	30905	122011	1789	6847

Source: Office of the Commissioner of Tribal Welfare, Hyderabad, Admin. Report, Jan. 2010.

in the Scheduled villages is held by the non-tribals. The pernicious poverty of the tribals has led them to become victims of schemes of non-tribal moneylenders, thus resulting in indebtedness and consequent alienation of land. To check the land alienation, several Land Transfer Regulations, including 1 of 59 as amended by 1 of 70, were created prohibiting the transfer of land between tribals and non-tribals, and among the non-tribals since 1917. In spite of these restrictions, land alienation is still prevalent<sup>42</sup> amongst the Adivasis.

Thus, see the issue from any angle one thing is clear as stated that "several legislations have been passed since Independence but 'despite the legislation in force against alienation of land from tribals to non-tribals, a fair proportion of them have either been dispossessed of their land or have parted with their land due to some other reason.'<sup>43</sup>

### Analysis and Conclusion

To answer one of the major questions posed in the beginning, this study paper provides strong evidence to support the hypothesis that denial of the land rights of the tribals is essentially due to the introduction of an alien land administration which marginalised tribes in subsequent legal proceedings. At the root of the problem in the Schedule V areas lies the fact that there is an inherent lacuna in the state policy that tends to be biased against tribals and which in turn perpetuates land alienation.

It is evident from the study that the extent of land alienation prevalent in the Scheduled Areas of Andhra Pradesh is a cause for public concern. The process of land alienation has not stopped even after the promulgation of tribal protective land laws. The reports of Tribal Welfare Department corroborates a fact that more than 48 per cent of land is held by non-tribals in the Scheduled Areas. The outcome of legal process shows that non-tribals could succeed 51 per cent of the cases and retain the land covering an

extent of 57 per cent of the total disputed land. Thus, the legal remedies available to tribals are not adequately put in place to address the tribal land alienation issue. The special protection extended for tribal rights through various legislations since 1917 form part of the welfare measures of the State, with the support of main opposition parties without converting it into a reality. The study also discloses the enormity of the yawning gap between formulating the laws and their proper enforcement.

Secondly, the tribal land alienation was noticed during the survey and settlement operations. The enactment of Land Transfer Regulations 1 of 70 has been paralleled by the introduction of Survey and Settlement Regulations 1 of 69, 2 of 69 and 2 of 70 after abolition of intermediary land tenure proprietorship, to scuttle the tribal protective laws in a systematic attempt by the State. As described by Gunnar Myrdal in famous Asian Drama, (Asian Drama, 1969 pp, 66 and 277), the role of the state in the case of the land alienation problem, was that of a 'soft state', which is dominated by powerful non-tribal interests that exploit the power of the State or administrative mechanisms to serve their own interests, rather than the interests of the tribals. Policies decided on are often not enforced, if they are enacted at all, and in that the authorities even while framing the policies, are reluctant to place obligations on people on the forefront.

In fact, the abolition of intermediary proprietors of land tenures is proclaimed to end the feudalistic and capitalistic mode of control over the resources. However, the state intervention further reproduced a legitimate non-tribal landholding class in tribal areas. The provision of settlement of land to the non-tribal ryots, if they have been in their occupation for a period of 8 years prior to the notified date under various Settlement Regulations is a "proactive" provision. Even the ineligible non-tribal encroachers secured regularisation of land

occupation under these Settlement Regulations, which are otherwise illegal under the Land Transfer Regulations 1 of 70. The administrative report of IAS officer Neerabh Kumar Prasad proves a fact that non-tribals fraudulently obtained settlement pattas over the lands situated in the Scheduled Areas.

The weak enforcing machinery, non-transparency and lack of accountability in the process of administration in land justice through Special Courts, stand as evidence for the continual infringement of tribal protective land laws by the powerful sections of the non-tribal population, in collusion with the state institutions. Thus, the plural land tenure administration and alien legal framework to determine land ownership has excluded the customary rights of tribal communities and impinged upon their capabilities and entitlements. This has resulted in the marginalisation of tribals with regard to their land and natural resources.

The Supreme Court had occasion to explain the rationale and legislative purpose of the Land Transfer Regulations in *P. Rami Reddy Vs State of Andhra Pradesh* (AIR 1988 SC 1626). It was held that as land in tribal areas passed into the hands of the non-tribals from the tribals, the law cannot remain content with merely freezing such transfers but should aim at restoring as much as possible land to the tribals.

The legal framework and machinery confronted with perpetuation of non-tribal exodus and growing land alienation has failed to inspire confidence among the tribal communities that they can get back their alienated land through the legal process. The legal system in place is inappropriate for fair play of justice.

The competition between tribals and non-tribals in accessing land justice in the context of Land Transfer Regulations 1 of 70 is characterised as "a race between a handicapped one-legged person and an able bodied two legged person" by the Supreme Court of India<sup>44</sup>.

The tribal land alienation issue is further complicated by the State taking up of projects like Polavaram and displacing tribal communities from their living space. As a result of land alienation, the tribals have lost livelihood opportunities and their cultural linkage with the natural resources. Perhaps, the tribal belt has to experience more and more incursions of the non-tribals, industrial interests in future and lose its character specified under Fifth Schedule of the Constitution if there is no restriction to such incursions.

In the light of the above, a land information infrastructure needs to support informed decision-making, not only within the government, but also in the community and for individuals. The task for planners can be particularly challenging as the existing legal framework does not support the tribals in getting back alienated land in the Scheduled Areas. Tribal land rights protection requires a rethinking on the part of the government about governance structures to bring about an equitable balance of rights and responsibilities between non-tribals and the tribal community as well as the State, in usage of land and their relationship with land. The inclusiveness of tribals in the decision-making process in land disputes should be an essential element to inspire confidence in the administration of justice in land matters.

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