



## The Issues of Land Access to the Tribals in Andhra Pradesh

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**Abstract :** *The self-sustained tribal life has been hampered by the modernization which necessitated a need for exploring new raw – materials. The forest policy and the entry of non-tribals in the tribal areas have made the native tribals as foreigners in their own areas. The immigrant non-tribal taking advantage of ignorance, illiteracy and simplicity of the tribals devised various dubious methods in which the tribals are locked in unending cycles of borrowing and repaying. When the tribals were over burdened with backbreaking debts, the usurious moneylenders forced them to part with their lands in lieu of their debts. The tribals who are entirely dependent upon these immigrant moneylenders for their credit needs could not extricate themselves from the strong hold of the usurious moneylenders. Thus the from this study it is clear that the land transfer regulations and its amendments could not stop the transfer of land from the hands of tribals to non-tribals and the regulation could not restore these lands to the tribals. The court litigation and other dubious methods adopted by non-tribals in grabbing the lands of tribals and connivance of the officials with the non-tribals are the major factor for such state of affairs in the implementation of the existing land protective regulations towards tribals in Andhra Pradesh.*

**Key Words:** Zamindari, Ryotwari,, Kandagutha, Payida , hirumanam kaulu, Tanka , Namu

Land problem is the main issue for the ill - fate of tribes all over the country. Though many studies recognized this fact, much coverage has not been given. After independence, some social scientists have tried to take up this problem in detail, but could not succeed. Many studies on tribal economy indicates the dearth of comprehensive studies to identify the causes for the tribal unrest or discontentment. The living conditions of the tribals have not been improved. The seeds of tribals discontentment which took their roots in the colonial period continues unchecked even till today. Thus the peaceful and

unrestricted life of the tribals has been disturbed by the creation of private rights over the tribal lands. The self-sustained tribal life has been hampered by the modernization which necessitated a need for exploring new raw – materials. The forest policy and the entry of non-tribals in the tribal areas have made the native tribals as foreigners in their own areas. The main source of living for the tribals is the land which has been transferred to the non-tribals. The so-called administrative steps and legal efforts to restore the lands to tribals and to improve their living conditions have miserably failed to bring the result. In



this context an attempt is made in this study to examine the land problems of the tribals and wants to make an effort to find out the remedial measures.

### **Existing Land System in Tribal Areas of AP:**

Land system pertaining to the use of land and controlling the land has everywhere been a major factor conditioning the socio-economic and political order of the day. Land is the major source of livelihood of the vast majority and it, in an economy dominated by private property relationships, tends to concentrate in the hands of fewer and fewer. This creates an artificial scarcity of land and land hunger to a majority. Land at this stage becomes a commodity where it also becomes a source of exploitation, which necessarily results in perpetuation of inequalities among the people. It is the level of production and ownership over the means of production and the way in which the products are distributed among the different classes of a society as a whole and of the various socio-economic groups comprising in it that is of paramount importance for deciding the nature of social formation. The land concentration particularly in the hands of a few, results in structural inequalities, which would further engulf the land disparities. It is in this context of broader spectrum of land disparities that exists in the Indian society, the land problem in the tribal areas assumes much more importance. The structural changes that occur in plain areas would invariably affect the neighboring forest regions where the tribal people are living.

These changes brought by the capital penetration are, the irrigation facilities railway and communication

facilities, sale and purchases of lands, creation of certain land systems like Zamindari, Ryotwari, etc. All these changes after post independence period contributed to the pauperization of the Indian peasantry. All these consequences paved the way for peasant struggles, which made the Indian state to adopt a policy of enactment of various land laws and introduction of land reforms. Simultaneously various developmental institutions came into existence in the form of credit network to counter the rural indebtedness and to reduce the role of moneylender. For example, the small farmer development agency is one of such agency. Such changes in the post-independence period should be taken as variables of a larger agrarian scene while viewing the tribal situation, which would give logical, answer to the unresolved land alienation question in tribal areas.

The land problem for the tribal had its origin from the time where their rights to exploit the forests were withdrawn. Hence the tribal has always struggling for land, and it is for the land that the tribal has been fighting and being killed for all these years. Thus it is clear that at one stage, the tribal communities of India, has control and freedom over large parts of the country. During the period of 17<sup>th</sup> and 18<sup>th</sup> centuries there were many tribal kingdoms in central India known as, Gondwana and Bhilmal, which had Gond and Bhil Chieftains respectively. Similar was the case in Assam, Bihar and other parts. Gradually due to various structural changes within and out side the tribal systems the more advanced groups forced the tribals either to retreat to the nearest jungles or to become landless laborers. The tribals were gradually deprived of their land, the



major source of their livelihood and the process became more acute by the mercerization of the economy.

In the absence of specific definite details about the tribal land ownership, by using the census data we can get an idea of the status of land holding and alienation of lands in tribal areas. According to 1961 census report 29 percent of the Scheduled tribe households had holdings less the 2.40 acres compared to 34.50 in respect of general population. The percentage of households having land holding between 2.50 and 4.90 acres was 25.60 for scheduled tribes, and 22.80 for general population. The percentage of households having 10 acres and above was 20.80 for scheduled tribes and 21.20 for general population. Thus the data reveals that the land holdings of the scheduled tribes are smaller than those of the general population and that it indicates a trend of gradual deterioration.

According to 1971 census, there were 84.18 lakhs of cultivators and 48.32 lakhs of agricultural labourers amongst the scheduled tribe workers who constitute about nine tenths of the total working population. The National commission on backward areas development further states that the tribal community by and large had lost their lands in the state of Kerala, Karnataka and Goa where less than one-third of them were recorded as cultivators. The commission further opined in the state with large tribal areas, there is both, the command over the land and the landlessness among the tribals. Such command over the land in these regions continues to be undisturbed though many adverse forces were present in such areas. The situation gradually turned

unfavorable with the process of development. In some of the advanced areas the members of the tribal families have been rendered completely landless and they may not possess even 5 to 10 percent of the total land of the area. The problem of the deteriorating land situation was also identified by the Dheber commission in 1961 and the A.O. Shilu Committee in 1969. The committee headed by P.S.Appu re-iterated the observations of the Dheber Commission and argued upon the government to take up rigorous protective measures.

In Andhra Pradesh, 9 districts viz., Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad, and Mahaboobnagar, constitute the traditional habitat of nearly 30 out of 33 tribal groups. The three tribal groups, Viz., Yerukala, Yanadi and Sugali, or Lambada are mainly living in the plain areas outside the scheduled area. The tribal population which constitutes 6.31 percent of the State population can be divided into 4 categories basing on their geographical distribution, habitat, and levels of development. The strategies of development approaches and specific schemes for their accelerated development are formulated on the basis of this categorization. Tribal Sub-plan area with the tribals living in the areas of tribal, concentration in the Scheduled village and adjoining areas, Primitive tribal groups-are those tribals living outside the Scheduled areas, Those tribals living in small pockets outside the scheduled areas, and Those tribals dispersed throughout the state.

Land is the main source of livelihood for majority of the tribals living in the sub-plan area. As many as 92



percent of the tribals of the sub-plan area depends upon agricultural and other allied activities. Hence, land assumes great importance in the tribal development. Due to several reasons such as lack of education, mobility and entrepreneurial skills, the tribal dependency on land has enormously increased. They developed emotional and sacred ties with the ancestral lands and territory. The tribal area which are now called scheduled areas in the state, constitute the traditional habitat of the majority of the tribals of Andhra Pradesh and the area was an inaccessible tract walled off by dense forests and hills.

The tribal communities are in occupation of this tracts and are living by practicing shifting and settled cultivation. Due to the development of communication and transport facilities and improvement of living conditions in tribal areas, the influx of land greedy non-tribals, the usurious moneylenders and traders into scheduled areas has steadily increased. In some tribal areas the unabated influx of non – tribals resulted in a radical change in a democratically composition whereby tribal became numerical minority in what was once their exclusive habitat.

The immigrant non-tribal taking advantage of ignorance, illiteracy and simplicity of the tribals devised various dubious methods in which the tribals are locked in unending cycles of borrowing and repaying. When the tribals were over burdened with backbreaking debts, the usurious moneylenders forced them to part with their lands in lieu of their debts. The tribals who are entirely dependent upon these immigrant moneylenders for their credit needs could not extricate themselves from the strong

hold of the usurious moneylenders. The lack of easy and reliable credit sources for the needs of tribals such as consumption loans, loan for social customs and traditions such as marriage, death ceremony etc., the multiplication of needs of tribals and increasing dependency of the tribals on various items brought from outside contributed to their indebtedness.

The non-tribal immigrants evolved various deceitful methods by which they grabbed the land of the tribals. Some of the following methods of transaction are noticed in the scheduled areas of the state: a) Kandagutha, b) Payida c) Thirumanam kaulu d) Tanka e) Namu etc., As a result of all these methods, large chunks of fertile lands had changed hands from tribal to non-tribal and thousands of tribals have been deprived of their ancestral lands and became agricultural labourers. According to one study, about 50 percent of the cultivable land in the scheduled area is under the occupation of non-tribal and the agricultural labourers in the sub-plan area are on the increase. For instance, in the districts of Srikakulam and West Godavari the Agricultural labourers constitute 55.65 and 51.79 percent to the total workers respectively.

### **Special provisions for Tribes in the Indian Constitution:**

The founders of the Indian Constitution were deeply conscious of the miserable conditions of the tribes who were segregated from the national main stream. The social scientists of this period also focused their attention towards the conditions of the tribes and began to discuss how best to deal with them. One school of thought led by Elwin argued to protect the aboriginals



by completely isolating them from rest of India and later he shifted his stance. A second school of thought led by Ghurye opined assimilation of the tribes into national main stream as essential. A third school believed that tribes should be integrated into the Indian society but not necessarily assimilated which means that it aims to preserve their identity. Ghurye (1963) made an elaborate discussion on the three solutions suggested for tribes problems; no change and revivalism: Isolationism and preservation; and Assimilation (1963:133-173). Dube(1968) and Vidyarthi (1968) discussed various approaches from anthropological point of view. The Government of India came to the stand that the tribe population cannot be left to lag behind and isolated. Nor the natural resources in tribe areas can be neglected. Integration of tribes into the national mainstream was considered to be the solution. The policy is to bring the tribes into the main stream in a phased manner. This policy also cautioned that the tribes should not be allowed to get exploited in this process.

The Government of India appointed a sub – committee in 1947 with Thakkar Bapa as its chairman to study the position of Excluded and Partially Excluded Areas of the erstwhile British Government. The committee made several recommendations. One of the important recommendations was that the state should bear the responsibility of the tribe people. It laid emphasis on the protection of tribe lands and prevention of exploitation by money – lenders. It also suggested certain statutory safeguards for the protection of tribes. After independence the British Policy of isolation and non – interference was replaced by a policy of integration

through development. Accordingly several provisions were made in the Indian Constitution. The most important provision of the constitution is the Article 244, which provides for administration of scheduled areas in accordance with the Schedule V to the constitution and the administration of tribe areas (Assam State) under Schedule VI. Articles 5, 16, 19, 46, 244, 275, 330, 332, 335, 339 and 342 of the Indian constitution provided specific provisions for the advancement of Scheduled Castes and Scheduled Tribes.

There are reservations in educational institutions, services, political bodies, special relaxations in age, qualifications, etc. Further the provisions are allowed for the necessary funds for Tribe Development Programmes. Many special provisions were made in Schedule V to the constitution in the interests of the Tribe areas. Clause “6” of the Schedule V empowered the President of India to declare any area where there is predominant concentration of tribe people as Scheduled area. The constitution of scheduled areas has two clear objectives, to assist the tribes in enjoying their existing rights unhindered or unobstructed by others; and to develop the areas and promote economic, educational, and social progress among them. The Fifth Schedule also gave wide powers to State Governors empowering them even to modify the existing enactments and make regulations for the welfare of the Scheduled Tribes. Article 338 of the Constitution provides for instituting a Commissioner for Scheduled Castes and Scheduled Tribes with an object of submitting reports on the administration of tribe areas in general and in particular about the provision of educational and medical facilities and communications in such areas. The



Commissioner's report is to be placed before the Parliament.

Under the provisions of the Art. 339 of the Constitution, the Government of India has set up the Scheduled Areas and Scheduled Tribes Commission. The commission in its report submitted in 1960-61, specified the policies to be followed towards Scheduled Tribes. The commission suggested, that the tribe should be assured that his rights in the land are safe and that the Government and Society are there to protect him; that the tribe should be made confident that no one will tamper with his way of life or his benefits and customs; and that the tribe should be made to realize that change is indispensable without which no development is possible, and the development is intended to secure for him and his family greater opportunities of life along with the rest in the country of which he is an inseparable part.

The founding fathers of Indian Constitution laid a firm policy of tribe development by incorporating various provisions on the doctrine of "compensatory discrimination". Consequent to the National Policy on Tribe which envisaged for protection and integration of tribes, several protective legislations were passed to provide protection and to safeguard the interests of tribes. These acts and regulations emanate from various constitutional provisions. Some of the important Central Acts are Protection of Civil Rights Act, 1955. Bonded Labour System (Abolition) Act, 1976. Child Labour (Prohibition and Regulation) Act, 1986. Forest conservancy Act, 1980, and SCs and STs (Prevention of Atrocities) Act, 1989.

A statutory presumption has been drawn, that until the contrary is proved, any immovable property situated in the agency tracts and in possession of a person who is not a member of a scheduled tribe shall be presumed to have been acquired by such a person or his predecessor through a transfer made to him by a member of a scheduled tribe. The non-tribals challenged the validity of regulation I of 1970 by filing a batch of writ petitions (No. 4609 of 1971) in the High court, Hyderabad. Their Lordships, justice K.V.L. Narsimham and justice Alladi Kuppaswami, in their judgment dated 29.04.1971 while upholding the validity of the said regulation held that the amending Regulation was not retrospective and it did not affect transfers which were made by the tribals prior to the passing of the Regulation. Further, the regulation-I of 1970 affected the transactions of the Co-operative Land Mortgage Banks, operating in the Scheduled areas, which had to stop all their transactions due to the restrictions imposed by the Regulation. These co-operative banks had by that time already advanced money to their members who were all tribals. To remove this hardship, regulation I of 1971 was passed.

Regulation I of 1971 provided for the mortgaging of any immovable property situated in the agency tracts to any co-operative society, including a land mortgage bank or to any commercial bank or any other financial institution approved by the state government on the express condition that, in the event of default, the property should be sold only to tribals or co-operative societies consisting wholly of members belonging to scheduled tribes. Further it prohibited lawyers from representing non-tribals without the permission of the Agent.



Even this attempt has been hampered by several writ petitions filed by affected non-tribals. Whenever eviction notices were served on them, many non-tribals filed petitions under Article 226 of the Constitution, challenging the constitutional validity of the regulation on the ground that section 3(1) of the Regulation was in violation of the Fundamental Rights guaranteed to them under Articles 19 and 31 of the Constitution and that it was violative of the provision of the rule of law contained in Article 14 of the constitution, and as such section 3 of the Regulation was ultra virus. But the High Court of Andhra Pradesh upheld the constitutional validity of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959. They said that it was only a reasonable restriction on the exercise of Fundamental Rights.

Thus from the above analysis it is clear that the land transfer regulations and its amendments could not stop the transfer of land from the hands of tribals to non-tribals and the regulation could not restore these lands to the tribals. The court litigation and other dubious methods adopted by non-tribals in grabbing the lands of tribals and connivance of the officials with the non-tribals are the major factor for such state of affairs in the implementation of the existing land protective regulations towards tribals in Andhra Pradesh.

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