Land Acquisition & Land Alienation in India

Select Case Studies



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SOCIAL DEVELOPMENT FOUNDATION

INTERNATIONAL LAND COALITION

Editor
Vidya Bhushan Rawat

SOCIAL DEVELOPMENT FOUNDATION

Social Development Foundation is a humanist organization based in Delhi, India. Established in 1998, the organization which works with marginalized communities in the states of Uttar Pradesh, Uttarakhand, Bihar, and Jharkhand.

The organization is dedicatedly working on land reforms, access to resources for livelihood, and building capacity and leadership within the underprivileged groups in India, such as the Muslims, Dalits, Aadivasis, Scavenger and Fishermen communities.

Over the years, SDF has collaborated with many organisations across the country which work in different areas with different issues. SDF aims to dispel superstition and the various kinds of prejudices they perpetuate, for the promotion of a full understanding of human rights and humanitarian values.

SDF is a member of the International Land Coalition, with whose partnership the research for this report was undertaken. ILC is a global alliance of civil society and intergovernmental organisations working together to put people at the centre of land governance. The shared goal of ILC's 207 members is to realise land governance for and with people at country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

INTERNATIONAL LAND COALITION

The **International Land Coalition** is a global alliance of civil society and farmers' organizations, United Nation's agencies, NGOs and research institutes. ILC's stated mission is to "promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building". Its vision is that "secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion". The ILC aims to build the capacity of its members and partners through people-centered development.

National Engagement Strategy for India where ILC members in India joined hand t work on thematic issues related to land and livelihood.

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Editor
Vidya Bhushan Rawat

Social Development Foundation
Delhi, India

International Land Coalition
Rome, Italy

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Foreword

Land has been an important part of human life. Land Reforms remain quintessential for social and gender justice. Land consolidation actually resulted in a highly inequitable society. India was among those very few nations that decided to abolish Zamindari and provide land rights to rural poor immediately after it became a republic in 1950. The government further went forward with its socialist agenda and brought in Land Ceiling Act to provide land to the last person of our society.

Even when officials were not honest in absolute terms to respect the 'Directive Principles' in the form of guidelines to Indian State, in terms of dutifully implementing it, the real changes appeared among Indian intellectuals in the aftermath of 1991 when Indian economy was 'liberalised' and government took extra steps to promote private capital and business investment in the country.

After 2000, the governments in India unleashed a wave of 'glasnost' in the economic sphere; therefore, they provided huge subsidies to big corporations and single window solutions for their problems. Suddenly, the greener regions of India, its vast and lush green forest zones became the target of big international and national corporations. The land was easily being occupied by the state in the name of 'national interest' under the colonial law of 1894 land acquisition act. Millions of acres of land were made easily available to greedy corporate houses, both national and international, without seeking any mandate from the people whether they want the project or not. Not only this, the irony was that there was no need for them to even think of any decent rehabilitation plan of those who lost their land and livelihood.

Huge protests had emerged in India; Nandigram and Singur became the symbols of the resistance and compelled the government to democratize the law which resulted in the new Land Acquisition Act of 2013 in which consent of the people became mandatory prior to any project where land acquisition was required. We have seen in India that despite all the laws which are quite democratic the real problem lies in non-implementation of them at the ground level.

We know development is essential for the country, but it is also important to challenge the developmental paradigms and also focus on the people who would be affected. Isn't it important to find from the people as what do they want and what have been their demands? Shouldn't we ever think how this 'consent' part was played down by the authorities at the ground? If we believe in democratic land governance we should not manufacture consent to satisfy ourselves in 'legality' and complete the paperwork which most of our officers have become familiar with in India. It is important to monitor how 'consent' works here.

In the past one decade, the fight for land rights grew multi-fold as governments continued with land grabbing and people struggled to protect their land. The government claimed its 'authority' of people and 'consent' by them while unrest grew everywhere as the democratic rights were curtailed and communities lost their livelihood without any concern shown by the authorities. Many of the writers and activists termed it as 'attempt' to turn the farmers and communities as landless in their own country.

It was an opportunity for us to understand how people's movement succeeded in getting their rights in wake of land grab by big companies and authorities so that positive lessons could be learnt. We have included twelve case studies in this volume which were presented by participants during the consultation organised in Delhi in September 2014. Commercial Pressure on Land is increasing and

therefore with the support of International Land Coalition, Rome, Social Development Foundation was able to monitor various cases of work related to land acquisition.

I must thank Prof. Sujatha Surepally, Department of Sociology, Satavahana University, Karimnagar, Telangana (now Principal, University College of Arts, Social Sciences and Commerce, Chintakunta, Karimnagar) for providing input on Polavaram issue including a joint visit to that region to have a direct access as well as contributing during the consultation. Kerala's Arippa Land Struggle friends need special compliments for managing a historical battle. Our friend from Uttarakhand Ms Saroj Arora, Senior Researcher, Lal Bahadur Shastri Academy, Mussoorie, deserves thanks for writing in details on the issue of traditional rights of the tribal community in Mizoram. Mr Ramdev Vishwabandu gave us details of Jharkhand's struggle. Mr Dinesh Desai from MARAG, Gujarat made his contribution for the work done against land acquisition there.

I would specifically thank our colleague and senior consultant Dr R. Sugathan for painfully looking at all the presentation and looking after the proof and necessary editing work. It is also important for me to thank all the people from the Secretariat of International Land Coalition, particularly its director M. Taylor for supporting us in organizing our consultation and providing us the opportunity to share our thoughts and do the needful research. We would also like to thank International Land Coalition's India partners, NES India in general, SARRA and in particular its director Rohini Reddy for providing us fullest co-operation.

This exercise would not have been possible without support from my colleague Mr D.S. Negi in making things easier in terms of logistics and taking care of my basic needs. My wife Namita and daughter

Vidita had been extremely supportive in my efforts. I wish to express my thanks to them too.

Social Development Foundation is especially thankful to International Land Coalition Rome for providing us this opportunity to organise this consultation on Free Prior Informed Consent. As a result of these consultation, this volume is out and we sincerely hope it will be of tremendous use for people working on Land issues directly or indirectly.

Yours Sincerely,

Feb 26th, 2016

Vidya Bhushan Rawat
New Delhi

Land Acquisition and Land Alienation in India
Select Case Studies

An Introduction

– Vidya Bhushan Rawat

Different struggles have been waged by people against land acquisition drives by appropriate governments or by private industrial houses by their help. In some cases, people won completely as in Dadri (Uttar Pradesh) and Raigarh (Maharashtra); in others they could restrict partly the acquisition as in the case of Mangalore SEZ (Karnataka). In many cases, struggles are still going on either to get proper compensation (as in Ayodhya Ram Temple, Uttar Pradesh) or land for livelihood (as in demand of cultivable agricultural land by scheduled castes [Dalits] and tribes [Adivasis] of Kerala). There are many cases where compensation is not given to the displaced where customary rights are in place, as in the case of northeast states such as Meghalaya and Mizoram. Moves had been in place since long to torpedo the 1975 Act and their State level legislations aimed at recovery of the lost land of Adivasis, as we particularly witness in Kerala. However, various struggles in this regard are still going on throughout the length and breadth of India.

The Land Acquisition Act 1894 mentions land as livelihood and will only be acquired for public benefits.[1] Under this pretext SEZs have been established. Usually SEZs are established in areas with water resources, mostly grabbing cultivable lands from farmers that too without properly compensating the land owners and various dependents on land such as share croppers, agricultural labourers, fisher people depending on water bodies, etc. Resources are being

[1] http://megrevenuedm.gov.in/acts/land-aquisition-act-1894.pdf.

taken over in all parts of India; to quell the people's revolt, state is aligning with the corporates.[2]

Of the land being acquired for developing an SEZ, only a small part is used for "core activities", whereas the bulk is being acquired for "non-productive purposes" reserved for services and residential complexes, etc. to solely benefit the construction and builder lobby. It is hardly surprising that the biggest builders in the country are queuing up before the government with SEZ proposals. Considering the mammoth sops that industry is getting in terms of 100 per cent Foreign Direct Investment, 100 per cent exemption from stamp duty and registration charges, customs, service tax, income tax for five years, substantial subsidies on electricity and water, it is obvious that the SEZs are a little more than another tax-dodge. Sundry tax exemptions already cost us Rs.1,58,000 crores. If the primary attraction of an SEZ is tax benefits, the investments there are definitely going to be a diversion from the domestic tariff areas. The Fiscal loss will be of about Rs.1,11,500 crores, without taking into account the tax loss from the profits of the developers of SEZs.[3] Recently POSCO steel plant in Orissa has been given the approval to classify itself as an SEZ despite the promoters only wanted land to set up their plant and a captive iron ore mine. When the SEZ scheme got unfurled, POSCO decided there was no harm if it also got some additional tax benefits, and so applied

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[2] Roel R. Ravanera and Vanessa Gorra, *Commercial pressures on land in Asia: An overview*, January 2011, http://www.landcoalition.org/sites/default/files/documents/resources/RAVANERA_Asia_web_11.03.11.pdf.

[3] Asit Das, *Displacement: Indian States War on its own People*, 28 November 2011, http://stormingthewinterpalace.blogspot.in/2011/11/displacement-indian-states-war-on-its.html.

for a SEZ, which would provide it an effective subsidy of more than 98,000 crores in the next 15 years![4]

These kinds of "development goals" will render lakhs of farmers landless, destroying the livelihoods of many lakhs more and will allow the free and open exploitation of labour and cause huge chunks of resources, private and otherwise, to pass on into private corporate hands. The continuation of this trajectory of development has already compelled people to rename SEZs as "Special Exploitation Zones".[5]

The myth of democratization is that the state does denigration of land struggles and denial of rights. The governments never did anything substantial in reaching the results of the Zamindari Abolition and Land Ceiling Acts to the landless poor. Post-LPG processes in the 1990s had exposed the laissez-faire claims of the state; commodification of land led to state becoming facilitator of real estate. Fight for human rights became people struggle vs. state.[6] 'Development' displaced more than 1 crore Adivasis in the entire country. In 2011, the Twelfth Five-Year Plan noted that, of the estimated 60 million people displaced in development projects since independence, as many as 40% were Adivasis, while their share in the general population has drifted around only 8%. The situation has aggravated since 1990s. UN Report by Olivier de Schutter in 2012-13 states that 15-20 million hectares of

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[4] Ibid.

[5] Asit, *Reflections of a Rebel: Reliance Maha Mumbai SEZ Study*, 23 February 2008, http://revolutionarynucleus.blogspot.in/2008/02/reliance-maha-mumbai-sez-study.html.

[6] Vilas Sonawane at the National Consultation on *Commercial Pressure on Land in India*, on September 28th and 29th 2014 at ISI, New Delhi, organized by Social Development Foundation (SDF) and supported by:International Land Coalition, Rome.

farmland in the developing countries are in control of the corporates.[7] What sovereignty is for the people? SEZ which became an Act in 2005 considers SEZ as 'foreign' territories.[8]

Now, the political climate is changing. With the new land bill and act of 2013 (The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013), discontent has been brewing among industrialists and higher classes, especially because of the consent clause as a precondition for acquisition. Some argue that there is just an illusion of consent, but even the procedures leading to such an 'illusion' are not followed. The symbolic value of Raigad referendum is a pressure on governments. 'Free prior and informed consent' (FPIC) in India is just a farce. FPIC is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use. FPIC is now a key principle in international law and jurisprudence related to indigenous peoples.

It is important to remember the Ecuador-led bill passed in the UNHRC demanding accountability of TNCs and MNCs to keep a check on the violation of people's rights. Though it was supported by Indian government, Indian media gave no coverage. In fact, Media has its own agenda. We may remember Kanshiram's caution on 3 Ms – Media, Mafia, and Money. Remembering Bhopal Gas Tragedy, it is important that violations not only of TNCs but also of indigenous companies need to be checked as well. There is a need for evidence based mass movement for this purpose.

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[7] Olivier De Schutter, *Report submitted by the Special Rapporteur on the right to food*, the UN General Assembly, 17 December 2010, http://www2.ohchr.org/english/issues/food/docs/A-HRC-16-49.pdf..

[8] Vilas Sonawane, op. cit., note no. 6.

Policy failures based on old laws and amendments is one of the problems. For instance, Maharashtra Compensation Act views land as commodity, foregoing the old idea of land as livelihood; and hence no fair compensation is offered. As far as acquisition of land is concerned, the existing laws before the Act passed in 2013 were not lenient to the displaced. Though SEZ Acts were tried and in many instances failed, the main land acquisition instrument remained the 1894 British India legislation. This anti-people Act was annulled with the new legislation namely, "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" (No. 30 of 2013). The Act provides for just and fair compensation to farmers while ensuring that no land could be acquired forcibly. The new Act stipulates mandatory consent of at least 70 per cent for acquiring land for public-private-partnership (PPP) projects, and consent of 80 per cent for acquiring land for private companies. The new Act mandates a Social Impact Assessment of every project which must be completed within a period of six months.

The most important feature is that the Act considers the affected Family to include agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans who may be working in the affected area for 3 years prior to the acquisition, whose primary source of livelihood stand affected by the acquisition of land. Combined with this, the conditions of consent, multiple rates of compensation, and fair R&R provisions made the Act a trouble for the state and corporates. With the new government in power, moves are already on to dilute this Act since this legislation is read as stumbling block by the corporate, industrial and development lobby.

Press Trust of India news from New Delhi on July 15, 2014 says that the Rural Development Ministry has suggested "drastic changes" to water down the Land Acquisition Act. At a meeting of State Revenue Ministers chaired by Union Rural Development Minister Nitin

Gadkari, the states including Congress-ruled Haryana objected to provisions for mandatory consent and Social Impact Assessment study. The Rural Development Ministry in its note sent to the PMO said, "The Consent Clause [Section 2(2)] should be re-examined as ownership of land vests with the Government in PPP projects. The consent clause should be removed from PPP projects. Alternatively, consent requirement may be brought down to 50%". It has also suggested amendment to acquisition of "multi-cropped irrigated land". It said, "The provision to safeguard food security (Section 10) by development of culturable wastelands in lieu of acquisition of multi-cropped irrigated land needs to be amended as States like Delhi, Goa, Himachal Pradesh and Uttarakhand do not have any wasteland for the purpose".

The Ministry's suggestions for drastic changes in the Act came after most of the states recently came out openly against the new Act, complaining that it had hurt the process of acquiring land for infrastructure projects. Responses sharpened the battle-lines. Farmers and their unions are against dilution the law. Even RSS-backed Bharatiya Kisan Sangh (BKS) has objected to dilution. However, corporates are standing against the Act, with Mr Gulabchand of HCC openly demanding the scrapping of the Act. Modi government was adamant on amending the Act, but the new bill failed in Rajya Sabha. However, the government went on with its adamancy and issued ordinance twice.

Here, we showcase some studies on cases where people mobilized their efforts against acquisition of land. Some have turned out to be complete or partial success. All the cases, with two exceptions, start with the background or what happened really in the case or project, then go on to describe the people affected and/or legislations involved, the story of struggle or litigation, ecological-environmental issues, free prior informed consent (FPIC) and national and international laws

being violated, people's movement and mobilization, and finally state the current status of the issue/project. The Mizo case discusses women's land ownership and also the conflict of legal rights with customary rights. Arippa land struggle in Kerala is occupation of a surplus land piece by the landless poor and demanding cultivable land in their home districts, and the movement epitomises the new path of constructive struggle through organic cultivation.

Case I

Maha Mumbai SEZ *of* Reliance Industries Limited *in* Raigad (Maharashtra)

– Ratnamuthu Sugathan

Background

Of the numerous peasant resistance movements taking place across India, many have been anti-displacement movements such as in Kakinada, Nandigram, Kalinganagar, POSCO (Jagatsingpur), Dadri, Goa, Mangalore, Sangrur, etc. One such people's resistance was in the Raigad district of Maharashtra where the peasantry have protested against the proposed Maha Mumbai SEZ (MMSEZ) of Reliance Industries. The proposed SEZ is spread over three Talukas of Pen, Uran and Panvel.

Special Economic Zones (SEZs) are free trade zones, having completely different set of administrative and taxation laws outside the purview of customs authorities. In their earlier avatar they were Export Processing Zones (EPZs) and also had similar privileges including a five year tax holiday which ended in 2009. The Indian political rulers have chosen to jump into setting up of SEZs, primarily to grab huge tracts of property and also extend the tax holiday for industry through the SEZ Act 2005. In 2006, 48 SEZs were announced. The largest was in Raigad district where Mukesh Ambani wanted to build a port.

People affected

In Raigad district itself about eleven SEZ projects have been proposed, spread over almost 50,000 acres of land. This has been without taking into account of the fact that most of this land is being used by local communities for farming, salt production, grazing and many other purposes. Villages in the Pen and Uran Tehsils have been opposing

this project since when the land acquisition notices were served in 2006. Reliance Industries Limited (RIL) was proposing to acquire about 14,000 hectares of land for the project in Navi Mumbai area. Most of this land is currently under agriculture or other uses by residents, mostly belonging to the Agri (classified as the OBC) and indigenous Katkari and Koli tribes.

However, some of these villages have other castes such as Koproli, Punade, Jui, Sarde, and Sangpalekhar, and few Scheduled Castes (SCs) population. Those communities who do not own any land are dependent for their livelihoods on the Sea or the forest in that area. They catch fish from the sea or collect forest produce like fuel-wood, wild fruits, honey, medicinal plants, etc., and generally exchange/barter with villagers these things for food grains. Upsetting the existing socio-economic milieu in the area/village would also have affected these indigenous communities adversely, if the project succeeded. While the government's estimate of directly affected persons is 50,000 farmers, one can surely estimate that at least more than 4 lakh people would have been directly or indirectly affected.

Ecological-environmental issues

Environment as the source of livelihood, i.e., loss of land, and access to sea and forest products, in the area proposed would have been lost to the local population. Even now some lands are with the Ambani institution. Possible increase in general pollution related to construction, etc. was avoided as the SEZ could not take off.

People's Movement and Mobilization

According to Vilas Sonawane, after hearing about the proposed MMSEZ, the Lok Sashan Andolan with Justice Sawant and various revolutionary left parties' activists went and conducted meetings in the entire 45 villages of Uran, Pen and Panvel Taluks. Seeing the anger and resentment of the people against the proposed MMSEZ these

groups decided to organise under the banner of the Maha Mumbai SEZ Virodhi Shetkari Sangharsh Samiti.

From anther side also, there was a move. Kiran Mhatre (Malegarhvadi) used to run self-help groups in 12 villages. When they first heard about the MMSEZ, on February 20, 2006 they held a meeting in one of the villages. Three hundred people gathered and formed Panchkosi Khar Bhumi Kheti Bachao Samiti (PKBKBS). They had an all-party meeting on April 15, 2006 where Mohan Patil of Peasants and Workers Party gave his support to the struggle and they decided to oppose the MMSEZ. A memorandum was prepared and presented to the Collector and Tehsildar.

On 23 March 2006 in a rasta roko at Raigad the leader of the Peasants Workers' Party and Jagtikikaran Virodhi Kruti Samiti were promised that the matter would be discussed at the Cabinet Meeting. But on 9 June 2006 the Maharashtra government issued section 4 (1) land acquisition notices to farmers of 45 villages of Pen, Uran and Penvel taluks of Raigad district. The government was supposed to issue the next notice within a year; otherwise notice period would lapse, but government could not issue notices within that time. In 2007 government issued notification on 19 June, i.e., after the offer period of one year was over. The farmers were of the opinion that 'government is playing a game against the farmers'.

The Maha Mumbai SEZ Virodhi Shetkari Sangharsh Samiti burnt the land acquisition notification on 21st June 2007, in front of the Special Land Acquisition Office at Pen in Raigad district. Approximately one thousand farmers participated in the agitation. The protest programme was supported by Peasants and Workers Party, Anti Special Economic Zone Committee of 24 Villages, Anti-Globalisation Forum Maharashtra, and other people's organisations. They expressed their strong opposition and feelings during this agitation. Aim of this agitation was to reject and express disapproval of government

resolution, to make an appeal to the state government for stopping land acquisition process at the earliest. It also appealed farmers to strengthen local struggle non-violently. The protesters submitted their demands to government officer during the programme.

On 21 July 2006 PKBKBS held a rally in front of the Pen Tehsil and submitted a memorandum to the Tehsildar, meanwhile objections were collected under Sec 4 of the Land Acquisition Act from each household and given to the Tehsildar, Pen. From August 10 to 15 2006, Sarvahara Jan Andolan held street plays in the Panchkosi and Pen areas creating awareness about the MMSEZ.

On September 21, 2006, Sitaram Yechury, CPI (M) went for a rally in Belapur (Navi Mumbai) where around 50,000 people gathered. Yechury gave an assurance that they would oppose the MMSEZ tooth and nail and if necessary also withdraw support from the UPA government. Jayant Patil and Vivek Patil of Peasants and Workers Party (P&WP) also spoke at the rally. On October 6, 2006, activists from the P&WP spoke in the rally against the MMSEZ.

Later in October, 2006 NAPM activists and Medha Patkar also toured the area and held a rally in front of the Pune Collector's office. Leaders from Peasants and Workers Party and CPI (M) also spoke at the rally. On 22 November 2006 a day long dharna was held at Jantar Mantar by the All India Kisan Sabha on the Raigad issue. They went in delegations to meet Somnath Chatterjee and Sitaram Yechury to discuss the MMSEZ issue. On December 2006 two thousand people came to Delhi, sat on a dharna at Jantar Mantar, and met the left party leaders.

Within Maharashtra, at various stages, different protesting groups met ministers and others in authority and negotiated the issue. On 23 March 2007, the day of Bhagat Singh's martyrdom, a massive road block was organised at Valkhal on the NH 17 (Mumbai-Goa) where

around 10,000 people were present. During this road blockade the budget session of the assembly was on and Jayant Patil, MLA of P&WP raised the issue about the MMSEZ. The CM assured the assembly that the land will not be forcibly acquired from the farmers. On 5 April 2007, at the call of Anti-Globalisation Front, a massive rally was organised in Azad Maidan, Mumbai. About 50,000 people came for the rally.

During this period the Chairman of the Select Committee of the Parliament on SEZs, Kashi Ram Rana came to visit Raigad SEZ area. But instead of meeting the affected people, at the MIDC office he met the Reliance officials and the Maharashtra bureaucracy. Outside the MIDC office more than 1000 farmers were waiting to meet him but he refused. This angered the people and they forced their way inside. In the tussle the police framed criminal charges and arrested 5 people. When Kashi Ram Rana insisted on visiting the SEZ area, the government instead of taking him to the SEZ area, took him to a non-SEZ village, Khalapur in Raigad. This really angered the people and they gheraoed the Panchayat Samiti office where he was having the meeting and so he was forced to meet Prof. N.D. Patil and other activists. They submitted to Kashi Ram Rana their written objections to the MMSEZ and in their memorandum they wrote that they want the entire project to be completely scrapped.

On 3 May 2007 the CM had given a written appointment to Prof. N.D. Patil and other activists, but when they went to the secretariat he refused to meet them. Then the government issued the Sec 6 of The Land Acquisition Act, despite earlier assurances that no land will be forcibly acquired. This created large scale resentment in the affected villages. On 15 June 2007 Chaubis Gaon SEZ Virodhi Sangharsh Samiti took a decision to create a mass awareness on this issue.

On June 20 more than 3000 people sat in silent protest in front of the Land Acquisition Office. Since the administration did not respond to this dharna, in the evening the activists met again and decided to have a rally the next day itself. On 21 June more than 10,000 people gathered in front of Pen land acquisition office and the Anti-SEZ committee burnt the land acquisition notification. The protest was organized under the leadership of N.D. Patil, others and local anti-land acquisition committee members.

On 2 July 2007 the Chaubis Gaon SEZ Virodhi Sangharsh Samiti activists met and decided to have a fast unto death for withdrawal of the Sec 6 notice. They conducted meetings in the villages to decide names of people who would sit on the fast, and 17 people sat on the hunger strike from July 17 to 24, 2007 in front of the Tehsil office at Pen. Their demands were that the land acquisition notices served in the case of the Maha Mumbai case should be immediately withdrawn and 22 villages of the Pen region falling in the Hetavne Kal Prakalp Pariyojana be given irrigation schemes from the Hetavne dam as promised to them to improve the agricultural economy. The SEZ Act 2005 has to be scrapped to protect the interests of farmers and poor people losing their resources at the hands of the elites. Up to five days the government had not paid attention towards the people, and then finally the collector of Raigad visited the people and asked to stop the strike. During her visit she promised that their demands will be conveyed to the government. On 23 July more than four thousand people and their organizations did a huge protest at Aazad Maidan in Mumbai. They pressurized and negotiated with government on the issues of withdrawal of 22 villages from Maha Mumbai SEZ. Eventually on 24 July Mr. R.R. Patil and Mr. Patangrao Kadam gave promises to exclude these villages, and then protesters stopped indefinite hunger strike on the 24th evening.

Meanwhile on 27 July 2007, at the call of Maha Mumbai SEZ Virodhi Shetkari Sangharsh Samiti, a massive rally was organised at Konkan Bhawan, Navi Mumbai. Around 40,000 angry farmers participated despite heavy rains.

Free Prior Informed Consent and national and international laws being violated

There have been brutal state excesses while attempting to forcibly acquire land at Nandigram, POSCO (Jagatsingpur), and Dadri. In Raigad, Maharashtra, police firing was supplemented by violent and intimidating activities by local criminals appointed by Reliance to do so.

In May 2007, when the movement was picking up, the government issued notice under Section 6 of the Land Acquisition Act, despite earlier assurances that no land would be forcibly acquired. This created large scale resentment in the affected villages. On 15 June 2007 Chaubis Gaon SEZ Virodhi Sangharsh Samiti took a decision to create a mass awareness on this issue.

Reliance, which has official control of 60,000 out of the 1,40,000 acres of land sanctioned till date in the name of SEZs, is going to emerge as the largest landlord in the country, and leaves the implications open for consideration.

As revealed by Vilas Sonawane on his and his friends' experience in their struggle against the SEZ in Raigad in Maharashtra, caste mobilization played anti-capitalist role. This is when labour groups haven't been successful in fulfilling their political responsibilities, and contextual regional fights have not been a general answer for the nation/world. Raigad castes included Agri, Karavi, Bhandari, and Kurmi among others. Jaati is also a mode of production, not just socio-cultural entity. Caste was used as an anti-capitalist tool in Raigad.

There was a need to avoid violence; militants from the Agrijaati had to be controlled.

Current status of the project

Ambani left the project after Governments' and his company's moves failed before the people's struggle. Market rate of the land and recent transactions were made public to make aware of the people that Ambani is offering a low price. A watch committee mainly of ladies was made to see if agents are coming to buy land. The activist leadership saw to it that the process is delayed so that the invested capital remains stagnant and dead. This also weakened the investor, and finally Mukesh Ambani withdrew from the scene.

Case II

Dadri Power Project, Reliance Power Ltd (India) *of* Anil Ambani, Dadri (Uttar Pradesh)

– Bhupendra Rawat

Background

Reliance Power Ltd (India) – part of Reliance Anil Dhirubhai Ambani Group (ADAG) – was planning to develop about 10,000 MW of gas based power capacities at multiple locations. Dadri Power Project, located at Dadri, Uttar Pradesh (UP) was one of the selected location by Reliance Power where about 7,480 MW gas based power plant was going to be developed. The level of investment in the project under development was estimated to be 6,459,427,000 USD. Agitation by the farmers and their representative organisations has been going on in Dadri ever since the Mulayam Singh Government announced its decision to set up the mega power project, in 2007. Prior to the Uttar Pradesh Assembly elections in 2007, the farmers' protest was spearheaded by former Prime Minister VP Singh and the Jan Morcha led by its then president, cine actor, Raj Babbar. Later, the reins of the agitation were taken over by Kisan Manch and other farmers' organisations such as Maharana Sangram Singh Kisan Kalyan Samiti, Dadri. Meanwhile, Shri Bhupendra Rawat of Jan Sangharsh Vahini was also leading a farmers' movement on the Dadri power plant location for reclaiming the Reliance-acquired land in Bajhera Khurd in Ghaziabad-Noida. Agricultural as well as cemetery lands were acquired for Dadri power plant; already the processes were on even by paying partially the compensation. Land prices around the Reliance acquired land increased – pitting farmers against farmers.

What really happened?

When Mulayam Singh Yadav became chief minister of Uttar Pradesh, his right hand man Amar Singh was made Chairman of the newly formed Uttar Pradesh Development Council (UPDC), which declared that they would make Uttar Pradesh as 'Uttam Pradesh', a better state. The UPDC consisted of Industrialists like Anil Ambani, Adi Godrej, Subroto Roy and Amitabh Bachchan, who are all well-known personal friends of Mr Amar Singh. The UP Development Council was supposed to guide the industrial policy of the government. Instead, it became a council, which divided various zones for its own purposes. Thus, Amitabh Bachchan became a farmer in Barabanki, while Subroto Roy decided that he should provide housing to state people and Anil Ambani, the prized catch of Amar Singh, was given to build power plant at Dadri.

When V.P. Singh and his colleagues in Jan Morcha decided that they would till the land at Dadri on July 8th, 2006, Uttar Pradesh government decided to take the escapist route of the judiciary. The Lucknow bench of the Allahabad High court was approached in the evening. The acting Chief Justice of the Lucknow bench Justice Jagdish Bhalla appointed a two member committee to look into the petition filed by the Reliance Industries of Anil Ambani. In the midnight of 7th July at around 11 pm, the two judges appointed by Justice Bhalla, heard the petition filed by the son of Justice Bhalla on behalf of Reliance Group. The judges without giving notices to the aggrieved party passed an order that the government must 'protect' the acquired site and should not allow any public meeting within the vicinity of the Bajhera Khurd.

According to noted lawyer Prashant Bhushan, the Lucknow bench overstepped its jurisdiction by accepting this case, which does not fall under its category. He openly called for a committee to be appointed by the Chief Justice of Supreme Court to inquire into the matter

whether Justice Bhalla has not violated the code of judicial ethics. Justice Bhalla should be asked to resign or failing which an impeachment process should start by the Parliament, said Prashant Bhushan. Former Chief Justice of India, Justice J.S. Verma was critical of the conduct of Justice Bhalla and raised the question of judicial ethics. Justice Verma said that justice should be seen as being delivered and the judges need to be very careful about the same. It was reported that Justice Bhalla's wife Renu Bhalla was given special favour by the Uttar Pradesh government. She was given a plot of 7000 square yards in posh Noida area worth Rs. 7 crores market value while she paid just Rs. 5 lakh for the same. The authorities are tight-lipped over it but definitely the conduct of Justice Bhalla has turned into a scandal for judiciary.

If the process of creating 'Special Economic Zones' goes uncontrolled, it would emerge a potential threat to Indian farmers and there are talks of ceiling limit for these areas. No doubt, more than a decade in the past, the corporatisation and urbanization process has caused immense harm to the rural economy of many developing countries. The promises made by the government in 1996 to World Food Summit were easily forgotten. Agrarian Reform has gone out of the agenda of the government. Perhaps the new meaning being provided to Agrarian Reform is the corporatisation of agrarian system.

People Affected

The affected parties include farmers and landless peasants, besides local environment. So, farmers, landless peasants, local environmental justice organisations, local government and political parties were all involved in the agitation. In 2009 farmers started protest marches at the power project site in Dadri. Protestors said that the way the 2,500 acres of highly fertile land was snatched from farmers by sighting the dream of a power project was wrong. They have staged a dharna (sit in protest) in Lucknow, capital of Uttar Pradesh in August 2009 against

the forceful acquisition of fertile land. They have demanded that the land should be returned to them and an alternative site at Dadri be allotted for the mega power project. Another place where about 300 to 400 acres of land was available in Dadri could have been allotted for the power plant. In fact the Reliance Company of Anil Ambani was doing more a real estate deal than a power project.

The fertile land belonged to about thousand farmers' families in seven villages of Dadri who were dependent on it for their livelihood. Farmers' representatives said the acquired land's fertility was attributed to its location. Situated between the Ganga and the Yamuna (called Doab, or the land between two rivers), the land fell within the National Capital Region (NCR) where multiple cropping pattern is followed. Much of the dispute centred on the compensation announced for the farmers. Farmers claimed that compensation given by the government was inadequate. The compensation had been fixed at the rate of Rs. 135 per square metre, whereas the current market rate of land in Greater Noida phase 2 was Rs. 15000 per square metre.

Mobilization

Forms of mobilisation included development of a network/collective action, lawsuits, court cases, judicial activism, public campaigns, strikes, blockades, development of alternative proposals, official complaint letters and petitions, street protest/marches, etc. Even while series of hearings were conducted, torture of protesting farmers continued.

Ecological-environmental issues

If the project continued, Air pollution, Food insecurity (crop damage), Loss of landscape/aesthetic degradation, Noise pollution, Soil contamination, Soil erosion, Groundwater pollution or depletion, Large-scale disturbance of hydro and geological systems, Reduced

ecological / hydrological connectivity, etc. were cited as potential environmental impacts.

Free Prior Informed Consent and national and international laws being violated

Violations of human rights and land dispossession were visible. If the local population could not have emerged winners, potential displacement, loss of livelihood, and loss of landscape/sense of place would have been possible. Uttar Pradesh government used emergency powers to buy land, that too without proper compensation. People affected were not given the choice to sell land. When the Allahabad High Court in December 2009 quashed the Uttar Pradesh government's earlier notification for using emergency powers to buy land, side-stepping a provision inviting objections from land owners, the state government then was forced to invite objections from farmers, under Sec. 6 of the Land Acquisition Act. The promises made by the government in 1996 to World Food Summit were also not kept. Mulayam Singh Yadav government misused Judiciary in protecting the interests of Anil Ambani. UPDC turned out to be a pretext to extend interests of the corporates, instead of the proclaimed agenda of development of UP.

Current status of the project

The Allahabad High Court in December 2009 quashed the Uttar Pradesh government's earlier notification for using emergency powers to buy land for the Anil Dhirubhai Ambani Group (ADAG) Company's Dadri power project, side-stepping a provision inviting objections from land owners. The notification was issued under Sec. 6 of the Land Acquisition Act. The state government then was forced to invite objections from farmers, who have the option of either returning the compensation they were paid to reclaim the land or forfeit any claim. In 2013, Uttar Pradesh State Government announced that they

have discontinued the project because of lack of Central government's support. The government has also claimed that farmers were given due amount for the land and the matter was pending before the court. Finally, Supreme Court verdict of 2014 asked to return the land, and observed the Uttar Pradesh government had violated the law. The compensations received were not given back, as money cannot be legally given back in illegal acquisition of land. Farmers who had protested against the land acquisition claimed victory.

Case III

M/s Lanco Anpara Power Ltd., Bhognipur Tehsil, Ramabai Nagar District (Uttar Pradesh)

– Suman Singh
& Vidya Bhushan Rawat

Background

Uttar Pradesh government signed a pact with private company M/s Lanco Anpara Power Ltd. for a 1320 Megawatt electricity generation through coal based Thermal power plant in the Bhognipur taluk of Ramabai Nagar district formerly known as Kanpur Dehat. The company has an office at Lucknow. The Ramabai Nagar district is on the northwest side of Kanpur (urban). The Land in question is on the South side of the district bordering District Jalaun. Bhognipur taluk comprising of two blocks, Amrodha and Malasa, is the location of plants

The purpose of the acquisition is not fully known but according to the local pradhans, the government is acquiring 3300 acres of land to establish a power plant by the side of the river Yamuna and river Sengur. The government of Uttar Pradesh has signed many MOUs with private companies to make Uttar Pradesh as 'Urjapradesh' i.e. energy state. The government is eliminating farmers and their existence by acquiring their land and giving it to private companies in the name of development. This is the kind of development which is wiping out the poor farmers in India. Instead of encouraging farmers to cultivate their fields through better technology for a better yield, the government is discouraging the farmers by rendering them landless. The government is also promising jobs in lieu of land as part of socioeconomic rehabilitation packages. But it is also true that these packages have never benefited all the villagers.

People affected

As per local informal sources, the state government was going to acquire 3300 acres of land for the said plant. The land is primarily irrigable and fertile agricultural land. The area proposed for the acquisition constitutes 7 Gram Panchayat and 16 villages with a total population of nearly 30000 people. Most of the affected population belongs to either landless Dalits or the marginal farmers belonging to OBCs. A negligible few are from other higher castes whose dependency on the agriculture has reduced drastically in the recent few years. The notices have been served to people that their land would be acquired for the plant which will make Uttar Pradesh, an electricity surplus state by 2014. The lands to be acquired are fertile for Dalhan i.e. pulses like Arhar, Chana and other such crops.

However, as per the data attached to the environmental clearance by the Ministry of Environment & Forests, land requirement for the project will be 900 acres, which comprises of 760 acres single crop agricultural land; 10 acres double crop agricultural land; and 230 acres waste land. Out of 900 acres, 456 acres will be used for main plant; 180 acres will be used for Ash disposal area; 220 acres will be used for green belt and 44 acres will be used for rail and water corridor. About 617 land oustees will be involved from villages Chaperghata, Rasulpur Bhuranda, Kripalpur and Bhartauli in Bhognipur Taluk, in Ramabai Nagar (Kanpur Dehat) district.

Ecological-environmental issues

Environmental clearance was given in August 2012 by the Ministry of Environment & Forests for the revised application filed in the mid-2011. It has been noted that the earlier proposal was based on domestic coal but due to its non-availability the present proposal is based on imported coal from Australia for an interim period until domestic coal is available. The proposal is for setting up of 2x660 MW Imported

Coal Based Green Field Super Critical Thermal Power Plant at villages Chaperghata, Rasulpur Bhuranda, Kripalpur and Bhartauli in Bhognipur Taluk, in Ramabai Nagar (Kanpur Dehat) in Uttar Pradesh.

Area requirement for ash/pond dyke will be 180 acres. Coal will be imported through Paradip Port or Dhamra Port, which are about 800 km and 1200 km away. Imported coal requirements will be 5.0 MTPA, whereas domestic coal requirement will be 7.5 MTPA. Sulphur and ash contents in imported coal will be about 0.5% and 8-10% respectively. Fly ash will be supplied to cement and bricks manufacturing companies. About 2.52 MTPA of fly ash and 0.63 MTPA of bottom ash respectively will be generated in case of domestic coal, whereas only about 0.4 MTPA fly ash and 0.1 MTPA of bottom ash respectively will be generated in case of imported coal from Australia.

It need to be understood that the proposed power plant by Uttar Pradesh Power Corporation Ltd (UPPCL) and M/s Lanco Anpara Power Ltd. was supposed to be built in Sonebhadra for which 255 acres land was to be acquired but because of environmental concerns the plant had to be shifted from there to Ramabai Nagar district. The Rania industrial area of Kanpur Dehat is already facing the environmental hazards of various chemical factories which despite all warnings have got certified from the Department of Pollution Control. If the plant has no environmental dangers then why was it shifted from Sonebhadra to Bhognipur tehsil in Ramabai Nagar district? Has the government done any groundwork about this coal based plant and the problems that might arise out of them? Mandatory public hearing should have been conducted for Environmental Clearance and only after this, notifications to the landowners should have been sent.

Free Prior Informed Consent and national and international laws being violated

In a notice dated February 22nd, 2011, the district magistrate (Land Acquisition), Kanpur Nagar, under Section 4 of Land Acquisition Act 1894, was threatening the people of dire consequences if anyone would try to create obstacles in the way of government officials who would be there for mapping and measurement of the land to be acquired. Such threatening letters have gone to the farmers who are the owners of their land. It is beyond anybody's imagination now that the government and its officials have resorted to blackmailing and threatening postures to acquire lands which are fertile for Dalhan i.e. pulses like Arhar, Chana and other such crops.

Of course, in the villages, the situation at the moment is complicated as not many people know about the company and nature of the plants. People only inform you according to hearsay. Powerful builders' lobby which is able to see the future is already dividing the villagers and selling dreams. The biggest target is village sarpanches who informed us that they would 'abide' by what the people decide; however inside information suggests that builders have already 'purchased' them for hefty sums and Panchayat resolutions seems to be 'procured' from them.

The document pertinent to the said acquisition and the Memorandum of Understanding has not been disclosed by the government so far, at least with the affected people. But the local organisations have filed applications under Right to Information Act to get the details of the acquisition. People were also not aware of the Environmental Clearance wherein mandatory public hearing should have been conducted before sending notifications to the landowners.

The larger questions remain unanswered: How do you decide as to what should be the price of the land to be acquired? Would our officials change the tone of their letters? Who fix the land rates? Is it the government or buyers or sellers who would decide the land price? In this particular acquisition, the government has flaunted all norms required to be undertaken before the acquisition process begins. The agents have been sent to lure the villagers with rumours of huge compensation. The consent of the villagers has been taken through fraudulent means. They have not been consulted but the Gram panchayat leaders were purchased, negatively impacting the entire process of de-centralised governance.

People's Movement

The villages facing threats of eviction today are ready to strike back. There are attempts to divide them on village lines. Many of the people whose land is barren want to sell their land without understanding the dangers of future prospectus of their kith and kind. Secondly, apart from human tragedy, the natural calamity which it might bring would be enormous. But those in power do not look at these aspects as they 'sell' 'dreams' to the people who would never be able to enjoy the electricity. We have the experiences of many power plants which give lights to cities and malls yet the very neighbourhood remain dark. The villagers of Bhuranda are determined not to let the officers in even for mapping.

Current status of the project

Now, the project work is not progressing. But no decision is officially taken to scrap the proposed project. According to the local land coalition group, already 1600 acres of land were taken over mostly of gram panchayats owned by small peasants under debt of zamindars. The group is of the opinion that compensation usually goes to the big farmers. There is a need for access to women. Married women's

papers mention husband's name and compensation is controlled by husbands. Women's economic empowerment is related to access to land, because it brings respect and power.

While the government is offering schemes for the farmers, in Bhognipur they are made to live under vulnerable situation. The local population demands that the government of Uttar Pradesh should immediately halt acquisition of lands for developmental purposes without conducting complete analysis of environmental damages that it could cause. The Public Hearings for land acquisition has to be done in accordance with law and not in a coercive manner. They understand the energy needs of the state, but at the same point of time, the government also needs to understand the damages such projects could cause. The acquisition is basically of green and fertile land which is totally unjustified.

The project would create further conditions of landlessness in the communities particularly those who are most marginalized and living on the edge. A large number of private parties are already in the area for land procurement and creating a very threatening environment in the villages, forcing people into submission and dividing them on caste lines. Such anti-social elements must be stopped and police protection must be provided to the villagers. The government must come out clearly about the SWOT analysis of the proposed plant and it must be shared with all the affected people, instead of stage-managing anti-people development plans.

Case IV

Srinagar Hydro Electric Project, Garhwal (Uttarakhand)

– Gangadhar Dangwal

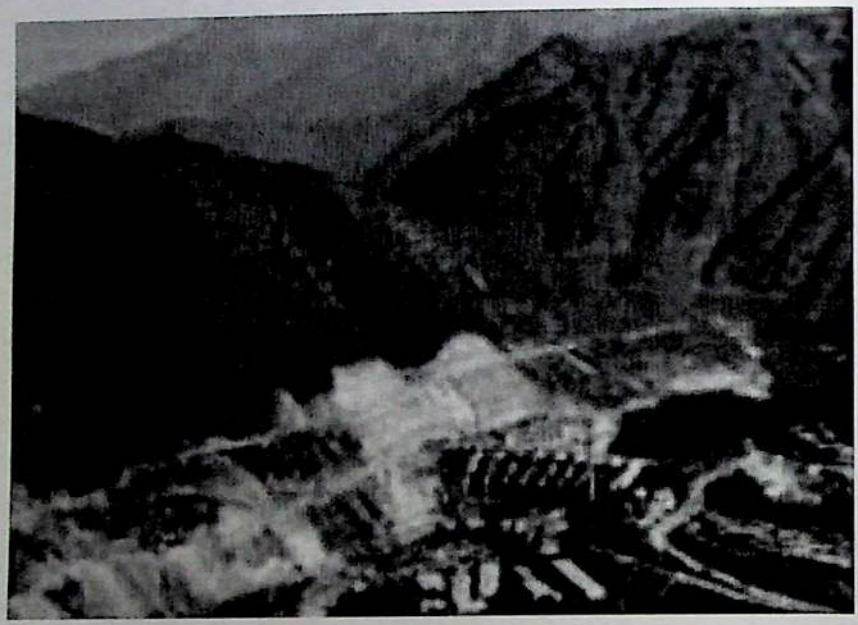
Background

The Srinagar Hydro Electric Project, a 330 MW Hydro project, is located on the Alaknanda River near Srinagar town in Garhwal district. Commissioned by GVK Power & Infrastructure Ltd, the hydel plant has been developed as a run-of-the-river project. The project is 248 m long, and is 90 m high (from deepest foundation level) dam, which rose to 100 m gradually. The project was initially envisaged by the then Uttar Pradesh State Electricity Board (UPSEB). Even in 2014, people are continuing their resistance against the GVK Company.

Ecological-environmental issues

The Techno-Economic approval of the scheme was granted for 200 MW by the Central Electricity Authority (CEA), a competent authority exercising powers under Section 29 of the Electricity (Supply) Act, 1948, in its meeting held on 6.11.1982, subject to the environmental clearance from the Ministry of Environment. A separate Environment Impact Assessment (EIA) was made on it on 9.2.1985. EIA stated that "one old temple, a suspension bridge and a small reach of the road will be submerged. The temple would be raised and erected with a pleasing architecture suiting the surroundings." The height of the dam in that report is mentioned as only 73 m. Again the issue was considered in EIA report of 2001 for a 330 MW project submitted by Duncans North Hydropower Company Ltd. pursuant to the decision of UP Government to privatize the project works and entrust this to the above mentioned company. The 2001 report states: "the construction of

project will affect 5 temples. The temple coming under submergence at village Kaliasaur is locally known as Dhari Devi temple. This temple is very famous and revered by the people in the region. The cost of relocation of temples, their approaches and the suspension bridge will be Rs. 10.75 million."



A view of the Project

In fact, the terrain is not fit for construction of such huge structure. The river bed is highly unstable and before the hydropower project, a medical college was proposed to be built at this place. But it could not be built because of the nature of the land. A portion of Srinagar Garhwal University that lies in the river bed is gradually caving in. But the dam's capacity was increased from 200 MW to 330 MW without any thought and concern for environment and geomorphology of the place. The walls of the desilting basin of the Srinagar Hydro Electric Project collapsed due to heavy rainfall and the swollen Alaknanda

River, a tributary of the Ganga, on which the dam is built. Four walls of the desilting basin – structure constructed just below a diversion structure of a canal to remove bed sand, and silt loads – collapsed when the dam authorities were conducting a test run of the project, as the basin was overfilled due to continuous downpour.

Earlier, residents of Naur, Kinkleshwar, Mani Chouraas, Gaursali, Naithana and Jyudisera villages had been repeatedly complaining to the dam authorities against leakage of water from the power canal of the project. After the walls of the basin collapsed, extra water from the canals overflowed and inundated several houses and fields in these villages. Mishaps are not new at the project site. In 2008, 2009 and 2010, the coffer dam of the project broke down. Due to poor quality, it is a continuous risk for human lives not only in local vicinity, but also up to Devprayag, Rishikesh.

People affected

Overall safety of the people is in peril. Villagers have been continuously objecting this project on safety, livelihood and environmental grounds. Many villagers from Mandoli, Farasu, Sem, and Sveet lost their lands and houses. Naur, Kinkleshwar, Mani Chouraas, Gaursali, Naithana and Jyudisera villages were facing leakage and inundation. Tourism declined in the state. Wastage of more than 4000 million of Rupees for this project alone is putting safety of people at peril.

People's Movement

Even in 2014, the agitation continues against GVK Company. Multiple PILs are to no avail. In the beginning of this year, the agitators tried to lockout the company, but police spoiled the attempt. Immediately after, the people from villages of Mandoli, Farasu, Sem, and Sveet sat on a dharna from 3 February 2014. After deterioration of health of many of its participants, SDM mediated a discussion with the

company officials, and the agitation was temporarily withdrawn. The dam affected people were supposed to meet the company officials on 16 March to discuss the root problems including a package of compensation.

Free Prior Informed Consent and national and international laws being violated

No question of prior informed consent arises here. Government decided the hydel project, and the implementation is given to private hands, with continuous changes in the initial project. Land acquisition was through 1894 Act utilising its clause of 'public purpose'. No proper counting of affected and ousted population could be done, since government and uninhabited lands were also involved.

Current status of the project

Project is still going on despite repeated failures, mainly because of the high stakes in corruption, though the project ultimately would end in no use. Even in 2014, the authorities failed in properly compensating the affected population.

Case V

Non-Distribution to the Landless SC/ST Agricultural Workers of the Surplus Lands Acquired from M/s Escort Farms (Ramgarh Ltd.), Kashipur, Shaheed Udham Singh Nagar District (Uttarakhand) through Land Ceiling Proceedings

– Vidya Bhushan Rawat

Background

This is a case of non-compliance of the state of Uttarakhand to the provisions Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950and the U.P. Imposition of Ceiling on Land Holding Act, 1960. Instead of distributing among the landless agricultural labourers belonging to Dalits and tribes, the administration transferred the surplus lands acquired from M/s Escort Farms (Ramgarh Ltd.), Kashipur, Udham Singh Nagar District (Uttarakhand) through ceiling proceedings to various other bodies. It was equally a litigation war for two decades by Social Development Foundation (SDF), an NGO, against the insensitive state and administration to aid the SC/ST landless agricultural workers.

People affected and legislations involved

The people affected are the landless agricultural labourers belonging to Scheduled Castes and Scheduled Tribes. The public interest litigation (PIL) by SDF demanded enforcement of the fundamental rights guaranteed under Article 14 and 21 of the Constitution of India in favour of the landless agricultural labourers belonging to SCs and STs. The PIL also asked for compliance by the state of the provisions of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950and

the U.P. Imposition of Ceiling on Land Holding Act, 1960 in their favour.

The story of struggle and litigation

The Shaheed Udham Singh Nagar case also shows how rich farmers are detrimental to the interests of landless agricultural workers, who they do not consider as equals. A majority of land related cases belonging to Dalits and tribes are related to administrative mistakes and corruption by lower level officials. The state of Uttarakhand was part of Uttar Pradesh until October 2000, and the Shaheed Udham Singh Nagar district has many similarities with that of the other district of Uttar Pradesh as far as land issues are concerned. Moreover, the land laws in Uttarakhand are similar to those in Uttar Pradesh.

The governments in Uttar Pradesh and Uttarakhand have denied justice to the people. Most of the time, when a matter is in the court, the government always takes shelter, saying the matter is 'subjudice'. In the case of Shaheed Udham Singh Nagar, the governments showed no will, as the matter was only made as an 'identity' of the Sikh community and was easily communalised. The local feudal elite exploited community identity as a major point of Shaheed Udham Singh Nagar and since that district was important both for Uttar Pradesh and Uttarakhand, no political party took a stand on it. Powerful Sikhs have also converted the land belonging to the Tharu and Buksa tribes into their land. If there is a legal process, they challenged it through sheer strength. On the ground, they beat up the locals and at the courts and international forums, they present themselves as victims.

In the past 50 years no government has implemented the land ceiling in this region effectively and the rich have been having a virtually free run. Interestingly, these farmers have invented novel methods to hold on to their illegally occupied land. Common methods used were:

divorcing one's wife on paper so that the woman becomes a claimant to the property; buying different tracts of land by changing ones father's name for the records; showing minor children as major; using the name of dead or non-existent people as the owners of a property; floating a family trust and forcing Buksa tribal to "donate" land to the trust (Buksas cannot sell their land by law but they can always donate); and forcefully occupying land (a majority of farmers keep armed musclemen with legal or illegal weapons).

Today, the entire fertile land of Shaheed Udham Singh Nagar has become the 'real estate' land and is being used for non-agricultural purposes. The Tharus and Buksas have got no compensation for their lands and government has no concern about them. According to Rajesh Joshi, Outlook, nearly 600 families control over 35 lakh acres of land in the Tarai. The Tharus, Buksas and other Dalit communities are demanding for strict implementation of land ceiling acts while the government and the real estate agents have sold their land for mini hotels and industries without anybody questioning them whether there are rules and regulation for conversion. Tharus and Buksas are demanding the Chakbandi or cadastre management and mapping of their land. The landlords oppose it for the fear of the reality would come out and they would have to leave their land. The government and political parties have shamelessly behaved in this region leaving out the Dalits and tribal completely from their agenda. Shaheed Udham Singh Nagar reflect the politics of land in India where even the minorities could prove fatalistic as they play the 'minority' and 'farmer' card denying justice to the poor.

The struggles of the Dalits and tribes for their rights over resources and dignity reflect the failure of our system and suggest that India has a long way to go before claiming it is a state that respects fundamental rights and believes in equality. In 1950, the state of Uttar Pradesh enacted the Uttar Pradesh Zamindari Abolition and Land Reforms Act,

which was considered to be one of the most progressive laws of the country. Despite numerous gaps in the law, it was lauded as a good initiative to eliminate the age-old custom of feudalism. Following this Act, the state of Uttar Pradesh enacted various laws to help the process of social justice, including the enactment of the Land Ceiling Act, which actually prescribed the ceiling limit to 12 acres.

When SDF started working in Uttar Pradesh and conducted the Land Literacy programme supported by the International Land Coalition, the aim was to strengthen the grassroots land movement and develop a knowledge network. This gave me a new idea of linking field visits to the workshops, resulting in new insights and information on the problems of the Dalits and related violence. With each workshop, SDF came across case studies highlighting the non-responsiveness of law enforcement agencies towards the plights of the Dalits. It also made SDF realize that the problem was not the lack of good laws but the laws not being effectively implemented. SDF used its energy to address these individual cases and filed petitions with National Human Rights Commission and other autonomous bodies to achieve justice, which were successful in many cases.

Along the way, there are a lot of tribulations, manipulations, and political pressure. For example the authorities may accuse you of hobnobbing with Maoists or Naxalites if you happen to be working in the tribal or forest zones, or harass you for asking questions about people's rights. The fifteen-odd day Padyatra (Foot-March) that the Uttar Pradesh Land Alliance undertook in the Uttarakhand region put SDF activists in trouble, as the authorities kept asking them about their intentions for undertaking the Padyatra. Thus, for over a year, Vidya Bhushan Rawat, the Managing Trustee of the SDF, was harassed on a daily basis by different agencies of the central and state governments, asking him various questions that had nothing to do with his work. SDF faced grave challenges, but these hours of crisis have worked to

put pressure on the government. SDF went on with the faith that with the nature of institutions India has, justice may be delayed but is not denied.

In Kashipur block of Shaheed Uddham Singh Nagar, when SDF investigated the matter in 1995, goons targeted its vehicle. Thankfully, the police officer of the area happened to be a Dalit and sympathized with the SDF work. He realised the danger to their lives and so sent two police constables with them. That day, the police protected them while taking photographs and speaking to the landless Dalits of the area. However, the next day, to their deep shock, the newspapers had stories published that some people were 'inciting' the Dalits of the area against Sikhs. In 1997, V.B. Rawat went in disguise with a milkman to take a look at the area. By that time, it was difficult for him to visit the area, as it was intimidating and threatening to be there. In fact, many times, whenever Rawat visited the region, the visit had to be kept utterly secret to protect him and colleagues from being targeted. During our Padyatra in December 2008, when it passed through the Buksa villages in Gadarpur, the local immigrant landlords started spying SDF activities. They would attend meetings and sit amongst the crowd to listen to what people were saying. It was difficult to get a right answer from the people, yet the yatra generated a lot of goodwill and power among the suffering communities in the region. After the yatra was over, Rawat was threatened by some of the locals and was told not to raise the issue or get ready to face the consequences.

When the government attempted to take over the land of M/s Escorts Farms in the Pachchawala and Harinagar area of Kashipur block, Shaheed Udham Singh Nagar district in Uttrakhand, powerful Sikh farmers attacked Dalit houses, blaming them for this situation. The government buckled under pressure and handed over the legal entitlement of the land to the Sikh farmers. The threats of violence

against those who are speaking against such intimidation are rampant in Shaheed Udham Singh Nagar. In fact, both Tharu and Buksa communities were asking the government to start 'Chakbandi' in the areas in Tarai which was being objected to by powerful landlords as they know that they would lose all the land they have illegally annexed and grabbed in their area. It also needs to be asked openly why the Tharus and Buksas have lost their land, despite clear constitutional provisions that tribal land cannot be sold or purchased. How can a government close its eyes on such blatant violation of the rights of its own people?

The new Indian state of Uttrakhand is not only conniving with the caste forces but also with corporate interests. Despite all the court verdicts, different commissions and government's own Ombudsman's recommendations, the state government is silent and has shamelessly not acted. A careful study of all the events and narratives related to the case of Shaheed Udham Singh Nagar's 150 Dalit families serves as an eye opener for anyone working in the struggle for land rights. One would be able to understand why the movements are foiled, how the Dalits face additional discrimination, and why, despite so many claimed successes, the movement related to Dalits' land rights isn't as successful.

Following is the chronology of the fighting by Dalits for land in Ambedkargaon, Kashipur:

- **1950**: Uttar Pradesh Zamindari Abolition and Land Reforms Act were enacted.

- **1950**: The land in question was released in favour of Raja of Kashipur and out of the same, portion was released to Ramgarh Farms Industries Ltd, with condition that they would have no right to transfer or alienate the land.

- **1960**: The UP Imposition of Land Ceiling Act was enacted, with effect from 3 January 1961.
- **1973**: The landless agricultural labourers belonging to Scheduled Castes were put in possession after declaring 250 acres of land as surplus.
- **1973**: The UP Ceiling Act was amended where tenure holder was reduced from holding 18.75 acres to 12.50 acres with effect from 24 January 1971.
- **29 June 1991**: The prescribed authority in terms of Amendments of Ceiling Act in 1971 declared 867.67 acres of land as Surplus.
- **14 January 1992**: The said order of the prescribed Authority was upheld by the appellate authority, the then commissioner of Kumaon, Nainital.
- **28 July 1993**: The local commissioners appointed by the Civil Court confirmed the possession of SC-ST agricultural labourers.
- **1993**: The landless agricultural labourers belonging to SC-ST communities were evicted from the land.
- **15 May 1995**: M/s Escorts Farms Ramgarh Ltd, being aggrieved by the order of prescribed authority went to the Allahabad High Court which dismissed with a cost of Rs Ten Lakh only.
- **20 February 2004**: The Honourable Supreme Court further upheld the order of Allahabad High Court and declared 1089.82 acres of land as ceiling surplus which was acquired from M/s Escorts Farms Ltd who were illegally holding it.

- Even when the government of Uttarakhand was trying to implement the Supreme Court order, the Sikhs or big farmers were targeting the Dalit houses and burnt many of them. Finally the government budged to the pressure landlord lobby.

- **14 December 2005**: The court orders were not implemented; hence a petition was filed with Lokayukta to rehabilitate the SC/ST landless labourers.

- **14 May 2007**: The official submitted their report to Lokayukta claiming that they were free to allot the land to anybody under Section 25 of the Land Ceiling Act and they were not bound by the mandate of Section 27 of the Act.

- **3 December 2007**: The Lokayukta submitted his report to Government and directed the authority to take the possession of land and distribute the same in accordance with Section 27(3) of Ceiling Act and Section 198(1) of Zamindari Abolition Act.

- **26 February 2008**: Even Lokayukta Report was flouted and hence SDF went to the Supreme Court under article 32 of the Indian Constitution.

- **16 March 2008**: The Honourable Supreme Court was pleased to issue notice to the government.

- **27 August 2010**: When the writ petition came for final hearing, the bench of honourable Chief Justice S.H. Kapadia and Justice Swatantra Kumar were satisfied with the merit of the case and observed that the High court of Uttarakhand was in a better position to decide about the matter.

- **4 October 2010**: A Public Interest Litigation was filed by SDF in the Uttarakhand High Court Nainital challenging the State

Government's position on UP Zamindari Abolition and Land Reforms Act 1950 give government unfettered rights to use the land accordingly.

- **26 October 2010**: A bench presided by Chief Justice Barin Ghosh and Justice Sudhanshu Dhuliya agreed to the position taken by SDF that the government can allocate land only according to the provision of UP Zamindari Abolition and Land Reforms Act and Land Ceiling Act and gave one year time to the authorities to report back to the court.

- **2011**: Till date the Uttarakhand government has shown no inclination to implement the order and rehabilitate the landless Dalits who have been fighting for their land rights since the beginning.

- **2012**: In view of no decision taken by the respondent State, the SDF was constrained to file contempt petition vide Contempt Petition No.99 of 2012 before the High Court of Nainital but the same was dismissed by this Hon'ble Court vide order dated 18 May 2012.The Court having found that the order of the Court was never served upon the opposite parties, Justice Tarun Agarwala ordered that the Court is not in a position to issue contempt notice for the alleged violation of the order of the Court.

- **27 August 2012**: Being aggrieved by the order dated 18.5.2012 passed by this Hon'ble High Court Nainital in Contempt Petition No.99 of 2012, the SDF filed Special Leave Petition (Civil) No.24358 of 2012 before the Hon'ble Supreme Court and the Court was pleased to issue notice vide its order dated 27.8.2012.

- **12 January 2013**: During the pendency of the aforesaid Special Leave Petition, counter affidavit dated 12.01.2013 was filed by the Respondent State before the Hon'ble Supreme Court. The said counter affidavit averred that after the judgment of this Hon'ble Court dated 26.10.2010, the State Government took a decision and distributed 1089.82 acres of land declared as surplus to different agencies of the State Government and only 32 acres land, which was uncultivable, were lying with the government. The counter affidavit states:

"15. 1089.82 acres land declared as surplus belonging to Escort Farms, has been allotted by the State Government as under:-

- 296.96 acres land has been allotted to SIDCUL.
- 200 acres land has been transferred to IIM
- 2.00 acres land has been transferred to Uttarakhand Pollution Control Board and Environment Department.
- 5 acres land has been transferred for building of Trade Tax Department.

"Thus so far 503.96 acres land has already been utilized by way of transfer to various Departments and necessary entries have been made in the Revenue records.

"16. Utilization of remaining land has been proposed as under:-

- Horticulture Department 27.16 acres
- For Stadium 50 acres
- For Transport Nagar 30 acres
- For Nagar Palika tracking ground 5 acres.
- Additional land to SIDCUL 21 acres.

- Allotment to 2031 families 422.08 acres.
- Total 555.24 acres.

"17. Thus total proposed and utilized land is 1059 acres. Balance land is 30.62 acres.

"18. It is relevant to point out that the remaining 30.62 acres land is un-cultivable and is divided under the small piece of land. It is therefore not fit for allotment."

- **25 January 2013**: In the light of said counter affidavit, the Hon'ble Supreme Court vide its order dated 25.01.2013 held that contempt was not maintainable and appropriate remedy was to file fresh substantive writ petition.
- **28 January 2013**: So far the contention pertaining to refusal to allot a single piece of land in accordance with the preferential order indicated in Section 198 of the U.P. Zamindari Abolition and Land Reforms Act, 1950 was concerned, the Hon'ble Supreme Court was of the view that same constituted a fresh cause of action and accordingly advised the petitioner to withdraw the Special Leave Petition and gave liberty to the petitioner to approach the Hon'ble High Court. SDF withdrew the special leave petition (SLP) with liberty to take recourse to such remedy as is available to it. The special leave petition is dismissed as withdrawn.

Current status of the issue

The SDF, through instant public interest litigation, is planning to approach the Hon'ble High Court against the impugned decision taken by the State Government in which not a single piece of land has been allotted to SC/ST agricultural labourers despite the unequivocal mandate of Section 27 of U.P. Imposition of Land Ceiling Act 1960

and Section 198 of U.P. Zamindari Abolition Act 1950. The Chief Justice of Uttarakhand High Court in Nainital is listening to the petition which is for final disposal though it looks difficult for them to take a decision that is bound to affect but the High Court has enlarged the petition. The judges have asked the state government to provide them details of how much land was redistributed to Dalits and Adivasis since the formation of the new state of Uttarakhand in November 2000. The state government is finding it difficult to respond but in their affidavit the government has admitted that it has not given a single piece of land to the tribal people in the state since the formation of the state. Even to Dalits the figures are absolutely contradictory. One cannot say this is merely ignorance but deliberate attempt to keep the SC/ST people subjugated. The biggest challenge before the court is to define which they have already done in past related to Ceiling Act and how it could be redistributed or whether social justice should remain a plank of the government in land redistribution or not.

Case VI

Polavaram Dam, West Godavari (Andhra Pradesh)

– Sujatha Surepally

Background

Polavaram Dam (Andhra Pradesh) is displacing an extremely larger number of Adivasis in the Indian history. Proposed in 1940-1943, and conceptualized and foundation stone laid in 1980, the work started in 2004. The 2.32 km long earth-cum-rock fill dam is supposed to have 45.72 m height and 181.5 km long Reservoir storage capacity of 55 mcm at Godavari River as well as a left main canal. The 174 km right canal is planned to link surplus basin water to Krishna River.

Expected cost is 17,000 crores till now, but there is no clue as to the cost at the end. No proper R&R Policy is envisaged. The Government of Odisha has been opposing the project as it would submerge over 2100 hectare of land and 13 tribal villages in Padia block of Maoist-affected Malkangiri district. Interstate disputes are increasing due to this project.

Ecological-environmental issues

The project violates Environmental Protection Act, 1986; Environment Clearance Regulation Act, 2006; and the 8th February, 2011 Central Government objections. No Environment Management Plan (EMP) exists. There are technical flaws and the environmental laws are violated to the maximum.

Free Prior Informed Consent and national and international laws being violated

When section 4(5) of the Forest Rights Act 2006 says unless the rights are settled no Adivasi can be displaced, the government does not heed to the situation. Forest land affected is 3,3731 ha. Panchayat (Extension to the Scheduled Areas) Act (PESA) of 1996 says that no project can be initiated in the land in a Schedule Five area without the consent of the gram sabhas. Forest recommendations committee (FRC) found that none of the meetings were held on the ground.

People affected

The displacement is going to be huge. Of the affected population, 53.17% belong to STs (1,25,934 in total). SC population affected comes to 29,796 (12.58%). Of the affected households, 12% are female headed while 88% are male headed. The site is 15 km away from North to Rajahmundry in East Godavari, with 277 settlements affecting 44,574 households in 44,574 ha. This population has increased to 2,36,834 persons in 2001 census. Today, the project is estimated to displace 400,000 people and submerge 40,000 hectares of land. The project is simultaneously part of the controversial national river linking project, and would be the first in 37 proposed. This will take 80 TMC water to Budameru of Vijayawada to Krishna River upstream of Prakasham barrage (174 km long canal).

Three thousand acres of forest land is submerged.The actual number of submerging villages claimed by Odisha is 10 while it is 23 villages in Chhattisgarh. But the AP Government says it is only 8 and 4 villages respectively. The tribal and non-tribal disputes are increasing as cash compensation is made to non-tribal population and land is offered to tribes while alternative location is yet to find.



Polavaram dam

As embankments are unsafe, the Government of AP assured huge walls for both states which are again controversial. Project was designed in 1980 and changed in 2005, but the flood situation estimate in 2006 by Central Water Commission (CWC) has not been incorporated in the design. Moreover, water intended is for industries in Visakhapatnam which need at least 18.5 million gallons water per day at the cost of drinking water for people. Companies such as the Jindal Aluminium Refinery (Podavara), Vizianagaram, and Anrak Alumina Refinery (Makavaripalam) Visakhapatnam will consume water, which is half the consumption of Visakhapatnam, the second largest city in Andhra Pradesh.

People's Movement

NGOs are attempting documentation of displaced people. There is no land to rehabilitate the Adivasis, which would be an extreme human rights violation. As Amartya Sen has viewed, the issue of development cannot be separated from the conceptual framework of human rights.

Right to development includes the whole spectrum of civil, cultural economic, political and social processes of people's well-being and realization of their full potential. It is an integral part of human rights Those objecting the project are labelled Maoists.One needs to question the development model.

Current status of the project

Not-withstanding the resistance by tribal people, both central and state governments are determined to go ahead with the project.

Case VII

Vedanta Alumina Limited, Niyamgiri Hills, Rayagada (Odisha)

– Ratnamuthu Sugathan

Background

The Niyamgiri Hills, part ofthe Eastern Ghats, in Odisha are home to more than 8,000 Dongria Kondh people, whose lifestyle and religion have helped nurture the forests and wildlife. They were almost losing their livelihood, their identity and the sanctity of their most religious site. Vedanta Resources wanted to mine the bauxite from the top of the same mountain. During the recent years when the demand of aluminium in the international market jumped substantially, and aluminium giants needed more reserves of bauxite to increase their production to take advantage of boom market conditions. Vedanta Alumina Limited, a subsidiary of M/S Sterlite Industries (India) Limited was going to mine bauxite deposit from the Niyamgiri hills jointly with Orissa Mining Corporation Limited (OMC) as per the lease agreement signed in between VAL (Vedanta Alumina Ltd.) and Orissa Mining Corporation (OMC) in October 2004.The Dongria Kondhs have successfully fought off the company that was determined to mine their sacred mountain's rich seam of bauxite (aluminium ore).

People affected

The Niyamgiri Hills, part of the Eastern Ghats, form a mountain range in the Eastern Indian state of Odisha. They are home to more than 8,000 Dongria Kondh people, whose lifestyle and religion have helped nurture the area's dense forests and unusually rich wildlife. Vedanta Resources wanted to mine the bauxite from the top of the same mountain. The Dongria Kondhs would lose their livelihood, their

identity and the sanctity of their most religious site. In common with other displaced tribal peoples worldwide, they would also lose their present good health, their self-sufficiency and their expert knowledge of the hills, forests and farming systems that they have nurtured. At the centre of the struggle was the Dongria's sacred mountain, the "mountain of law" (Niyamgiri). The Dongrias worship the top of the mountain as the seat of their god and protect the forests there.

Ecological-environmental issues

The REIA (Rapid Environmental Impact Assessment) report prepared by Tata AIG Risk Management Services Ltd., Mumbai (TARMS) for SIIL mentions that the estimated bauxite reserve in the lease area is about 73 million tons and the estimated life span of the mining is 23 years. The proposed mining site is located on the top of Niyamgiri hills. As per the REIA, "Mechanized open cast mining is proposed for the deposit particularly due to low overburden thickness, high bauxite thickness and high production levels. The blasted material will be loaded by hydraulic excavations and subsequently transported by 35 tonner dumper to semi mobile Crusher Hopper. The crushed bauxite ore will then be sent to the Alumina refinery by conveyors.

One of the major environmental impacts of bauxite mining is the implications of the disposal of alkaline mud, otherwise known as 'red mud'. Escape of caustic soda, used to extract alumina from raw bauxite, into the ground water is quite likely which will increase sodium concentration in the well water, etc., and high sodium is undesirable in potable water since it is associated with hypertension. Mining in Niyamgiri hills, which is one of the most ecologically bio-diverse areas of the state with its wide range of flora and fauna, rivers and streams, defies logic and reasoning. The proposed project will result in change in land use pattern. There will be reduction in the forest cover (mainly reserve forest cover).

Free Prior Informed Consent and national and international laws being violated

When section 4(5) of the Forest Rights Act 2006 says unless the rights are settled no Adivasi can be displaced, the government does not heed to the situation. Forest land affected is 3,3731 ha. Panchayat (Extension to the Scheduled Areas) Act (PESA) of 1996 says that no project can be initiated in the land in a Schedule Five area without the consent of the gram sabhas. Forest recommendations committee (FRC) found that none of the meetings were held on the ground.

The state government of Naveen Patnaik made all the moves to hand over the hills to the Aluminum giant. Thanks to the Ministry of Environment and Forests (MoEF) under Jairam Ramesh and Supreme Court, the Adivasis of Niyamgiri Hills got a relief in the beginning. Later, 12 gram sabhas have asserted their community rights over Niyamgiri and said no to the state government's move to hand over nearly 700 hectare of forest land to VAL (Vedanta Aluminium Ltd) for harvesting bauxite.

Chain of Moves

In April 2009, the Ministry of Environment and Forests (MoEF) had cleared the mining project. Amid widespread protests, the Centre constituted a committee under NC Saxena that pointed out a number of irregularities. Subsequently, acting on the fresh recommendation of the Forest Advisory Committee (FAC) that had in 2007 approved the project, then Environment minister Jairam Ramesh ordered temporary withdrawal of clearance in August 2010. In March 2011, the Odisha government moved the Supreme Court against the MoEF's order. Once the ministry defended its stand as a safeguard against possible violation of cultural and religious rights of the local tribals, the SC on 18 April2013 asked the state to seek the view of affected villagers. Acting on the state government's assurance of handing over a bauxite

reserve lying within a stone's throw, Vedanta has already invested Rs 50,000 crore in the project in building the refinery at Lanjigarh. It was considered one of Chief Minister Naveen Patnaik's early breakthroughs when he apparently convinced Anil Agarwal to invest in the backward districts of Kalahandi and Rayagada. The company sought environment (2003) and forest (2004) clearances for its plant separately. The application for the environment clearance made no mention of the forest land required. The environment clearance was issued in 2004 on condition that the company would secure mining clearance before "operationalising" the refinery. The approval letter stated that "the project does not involve diversion of forest land."

Earlier, the MoEF issued a stop-work notice in 2005 till clearance was given for the diversion of 58.9 hectare of forestland. The company promptly withdrew its application for forest clearance, saying it didn't need the forest land. The Supreme Court, in 2006, asked the Wildlife Institute of India (WII) and Central Mine Planning and Design Institute Limited (CMPDIL) to examine the project's impact on wildlife, soil and water systems, following a strong recommendation by the Central Empowered Committee against mining. While CMPDIL gave the project a clean chit in 2007, the WII report expressed a number of concerns over the impact of mining on the wildlife before settling for Rs 42-crore mitigation plan. But for now, the company will have to depend on bauxite from faraway Gujarat to keep its Lanjigarh refinery in operation. Thanks to the Supreme Court, the people's courts at Niyamgiri have set a benchmark for the implementation of the Forest Rights Act. The SC's other verdict, giving landowners proprietary rights to minerals lying under their land, has redrawn the limits of state ownership. Now it is for our elected leaders to honour the people's trust and commit and deliver within the confines of a democracy.

Current status of the project

Odisha's Niyamgiri hills have culminated in an outright rejection of the company's plans to mine bauxite to feed its alumina refinery at Lanjigarh on August 2013. Asked by the Supreme Court to take a call on the proposed mining, all 12 gram sabhas have asserted their community rights over Niyamgiri and said no to the state government's move to hand over nearly 700 hectare of forest land to VAL (Vedanta Aluminium Ltd) for harvesting bauxite. Aided by the consent clause of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, the primitive tribes could get one of their first victories.

Case VIII

Bhavanapadu Thermal Power Project, Kakarapalli, Srikakulam (Andhra Pradesh)

– Vidya Bhushan Rawat

Background

The Bhavanapadu Thermal Power Project, with an investment of Rs 12,000 crore, promoted by East Coast Energy Private Ltd (ECEPL) is a coal-based thermal power plant proposed to be located right next to Naupada bird sanctuary in Kakarapalli village, of Santhabommali Mandal. The project was granted environment clearance under the Environment Impact Assessment (EIA) notification, 2006 on 11 February 2009. The plant is envisaged to be developed in two stages with an ultimate generation capacity of 2640 MW. The Andhra Pradesh Industrial Investment Corporation (APIIC) gave it 992 hectares (ha) in 2006. The site of construction is a marshy land with at least 40 middle-sized ponds and a vast area used as salt farms. The government asked the Andhra Pradesh Industrial Infrastructure Corporation (APIIC) on 15 September 2008 to transfer to the company, 3,333 acres of wetland in five villages, Kakarapalli, Akasalakkasvaram, Kotapadu, Pothinaidupeta and Vadditandra. EC was given flouting all rules and regulations.

People protested. Communities of the 30 villages surrounding the swamp in Santhabommali Mandal do not want the project. M Narasingha Rao, who is leading the fight and has been slapped with criminal cases, including attempt to murder, says, "It is a common property that has been fraudulently declared barren land." A village in Andhra Pradesh has become the epicentre of an eight-month-long fight against a power plant in neighbouring Kakarapalli. Following two deaths in police firing on 28 February 2011, people from 29 villages

near the plant site thronged Vadditandra village in Srikakulam district to show support and mourn the deaths. The project site, part of Naupada wetland, provides livelihood for fishing and salt-producing communities and also has agricultural land. The law provides that such lands should not have been diverted to industrial use. The story of Kakarapalli is a familiar one: rules are twisted to suit corporate interests, government officials ignore the law and the concerns of local people are given short shrift. Now the plant site remains disputed.

People affected

About 20,000 people do salt farming on it, 5,000 fish in its ponds and another 5,000 do farming, according to revenue and census reports. If the level of the land were to be raised even by a few feet, the water from the wetland would submerge 20,000 to 30,000 acres of adjacent agricultural lands. The records of the local officials of the revenue, forest, fisheries and salt departments would have shown the facts, had the district collector asked for the same.

In the initial environmental impact assessment report, however, the company describes the area as "barren, uninhabited, low-lying" land belonging to the state. The report states, "There is no rehabilitation and resettlement issue, since there is no habitation on the land". The forest department terms the patch of land as wetland with rich biodiversity. So communities of the 30 villages surrounding the swamp in Santhabommali Mandal do not want to part with it. M. Narasingha Rao, who is leading the fight and has been slapped with criminal cases, including attempt to murder, says, "It is a common property that has been fraudulently declared barren land."

A village in Andhra Pradesh has become the epicentre of its fight against a power plant in neighbouring Kakarapalli. Following two deaths in police firing on 28 February 2011, people from 29 villages near the plant site thronged Vadditandra village in Srikakulam district

to show support and mourn the deaths. "My brother gave his life to protect our livelihoods. None of us can give up the struggle now," says Jeeru Murli, brother of Jeeru Nageshwar Rao of Vadditandra who was killed in the firing. "The plant will not happen on our land."

Ecological-environmental issues

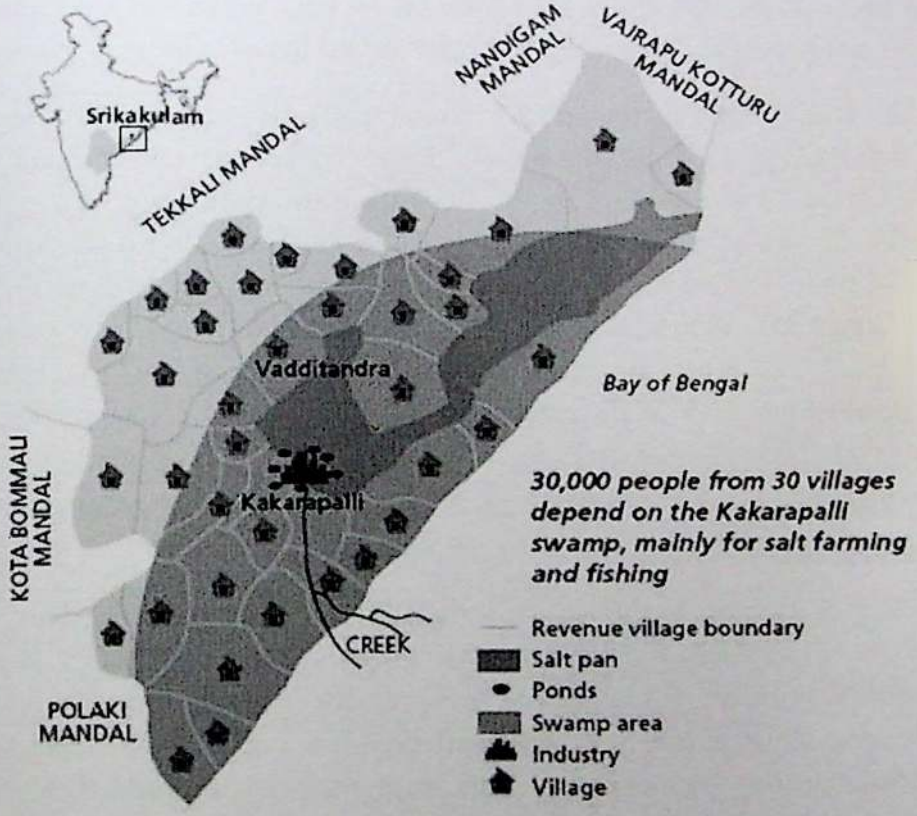
Four streams, the Garibula Gedda, Bheemapuram Gedda, Enugula Gedda, and Sandemma Gedda and surplus water from Vamsadhara Left Canal bring water into the wetland system, which, in turn, drains it into Bay of Bengal near Naupada. The water inflows and outflows are delicately balanced. A steady supply of fresh water is critical to maintain the brackish nature of a swamp like Naupada. This is what ensures the biological diversity of the area. If the fish and invertebrates die with the habitat, all the visiting birds won't have anything to feed on. By reducing the flow of fresh water into Naupada, the project authorities were impacting the hydrological flow of the wetland, and increasing the salinity of the water.

According to reports of the Important Bird Area (IBA) programme of the Bombay Natural History Society (BNHS), Naupada is critical for the survival of a prime bird habitat. This 15-20 sq. km of brackish swamp is just 5 km from Telineelapuram pelicanry, a globally recognised area for avifauna.

Instead of focusing attention on genuine environmental concerns, the state argued the company's case before the Expert Appraisal Committee (EAC) of the Ministry of Environment and Forests (MOEF). Some of the locals including E.A.S. Sarmahad tried to apprise EAC of the facts about the project's impact on the people and its effect on the ecology that surrounded them. A subgroup of the EAC visited the site and corroborated the same opinion. However, strangely, EAC chose to accept the version of the company. In its eagerness to secure EAC's endorsement for the project, ECEPL offered to

surrender 500 acres from the site on its southern side and retain only 1,960 acres. The EAC grabbed this offer to recommend the project for environmental clearance (EC). The MOEF was equally quick to issue the EC. This was despite the fact that an independent team of environmentalists headed by Asad R. Rahmani, Director of Bombay Natural History Society submitted a report to the MOEF in September 2008 on the ecological importance of the land in question.

SANTHABOMMALI MANDAL IN SRIKAKULAM DISTRICT



The EC had, inter alia, stipulated the following conditions:

Clause 3(v): Area drainage system will be prepared and implemented to ensure that the ecology of the area is not disturbed.

Clause 3 (xxii): A green belt of adequate width and density shall be developed around the plant periphery covering 1/3rd of the project area preferably with local species.

While the EC was being issued, in the 500 acre piece of land surrendered to conserve the ecology, a benami company, Meghavaram Power Company, was quickly created, the state approached for setting up another 500 MW power project on that same plot of land and a public hearing got conducted, all within a few days. Apparently, it was a fraud committed by the company on MOEF. When this was pointed out to the MOEF, the latter rightly cancelled the new project.

The locals felt that the EC for Kakarapalli also should have been reviewed on this ground alone. Some concerned citizens and the villagers filed cases against the EC before the apex court of the state and the National Environment Appellate Authority (NEAA). Around this time, the MOEF had on display at its website a draft of the Wetland Conservation Rules for public consultation. The concerned citizens had relied on it to argue the case. Strangely, the MOEF removed the draft from public display and averred before the courts that such rules were not in force! One is not certain whether this was prompted by MOEF's eagerness to remove the hurdles in the way of the project.

The sole member of the NEAA himself visited Kakarapalli and arrived at the conclusion that the site was a part of an ecologically fragile wetland system. However, he gave undue weightage to the work already done at the site and delivered an order on 7 September (National Environment Appellate Authority order dated 7-9-10 in Appeals 16, 17 & 32 of 2009) upholding the EC as a fait accompli, but with the following conditions:

No filling and raising of land beyond 1,317 acres within wetlands of which 50 acres would be green belt.

No activity in identified 483 acres of land which includes 8 acres of proposed pond near the temple.

While appeals of the concerned citizens were pending before NEAA, the standing committee of the National Wild Life Board (NWLB) deputed a two-member committee headed by Asad R. Rahmani to visit Kakarapalli and report on the matter. In December 2009, the team found that the site was a part of an ecologically fragile wetland system. The standing committee of the NWLB, chaired by the union minister for environment and forests himself adopted the report fully.

Evidently, the NEAA was told by ECEPL that it had only 1,800 acres in its possession but, in reality, it seemed to have more than 2,500 acres. The company, according to the villagers, constructed a bund, partly within the site and partly outside, without authorisation, to divert water from the site to the adjacent fields. By doing this, the ECEPL once again violated the State's Water, Land and Trees Act, 2002 and took action that clearly exceeded the EC as well as NEAA's order. In fact, this became a bone of contention between the villagers and ECEPL.

But much before the formal approval came, ECEPL was on the job, excavation work had started, and Naupada's water was being drained. A report of the Bombay Natural History Society (BNHS) on the environmental violations by the project authorities stated this clear and strong. The project proponents were diverting fresh water away from the swamp to facilitate drainage of the construction site. To achieve this, a diversion canal had also been built.

The story of environmental clearance is found strange to note its contradictions and finally going against environment and all rules and conventions. The Expert Appraisal Committee (EAC) of the Ministry of Environment and Forests (MoEF) stamped a different fate for Naupada's future. The decision took several months, site visits and

considerations. The last two meetings are especially noteworthy for the contradictions they contain. ECEPL's proposal was considered in the 36th meeting of the EAC in December 2008 following a site visit to the area by representative members of the committee. At this meeting the EAC noted that the part of the proposed project area is used by endangered birds for breeding and nesting. At the meeting, the site was referred to as an "ecological entity of incomparable value requiring conservation and protection". Yet the EAC did not consider it appropriate to summarily reject the project outright. Instead, ECEPL was asked to shift its plant upland sufficiently away from the marshy area. Thereafter, the company would be allowed to submit its proposal for reconsideration. ECEPL returned with a reorganised plan, also reducing its land requirement from 2450 acres to 1995 acres. This plan also entailed reducing 500 acres of marshland from the southern side of the plant. However, the project site was kept the same; the original location was not shifted up or down from that the EAC had objected to. Nonetheless, the EAC members decided that they were fine with this proposition. At its 40th meeting, the thermal power plant at Bhavanapadu was approved, along with a list of conditions and a 'Conservation Cell' was also established for a project which proposes to choke the Naupada area out of water and bird life. But what is surely incomprehensible is that in the environment clearance letter, it is now claimed that Naupada is neither an existing nor proposed migratory path for birds. The area is neither a nesting ground nor foraging ground for "large sized migratory birds". Now, it is disputed that some of the environmental experts including Rahmani in the EAC might have retracted from their earlier stand.

Article 48A of the Constitution and the National Environment Policy (NEP) of 2006require the state to protect the wetlands. India is a party to the Ramsar International Convention on Wetlands Conservation. The statute and India's commitments to the international community prohibited assignment of wetlands to industry. In 2003, as a part of the

Neeru Meeru (water conservation) scheme, the state government asked the district collectors (Memo No 24140/Assn I(1)/2003-3 dated 22-8-2003) to identify all waterbodies including wetlands, place them on the village Prohibitory Order Book (POB) and preclude them from diversion for any construction activity. The likely impact of pollution from the project on the water in the wetland, on its ecology and on the other water sources, including the groundwater aquifers and the sea is not taken into account. The EC given to the plant thus shows clearly a naked violation of rules.

Free Prior Informed Consent and national and international laws being violated

When section 4(5) of the Forest Rights Act 2006 says unless the rights are settled no Adivasi can be displaced, the government does not heed to the situation. Forest land affected is 3,3731 ha. Panchayat (Extension to the Scheduled Areas) Act (PESA) of 1996 says that no project can be initiated in the land in a Schedule Five area without the consent of the gram sabhas. Forest recommendations committee (FRC) found that none of the meetings were held on the ground.

When the state government decided in favour of Kakarapalli plant what followed was only blatant rejection of rules and procedures. The district collector was expected to suppress the facts and highlight the project benefits to pave the way for the project. In the instant case, the collector fulfilled these expectations. He suppressed many facts, including the number of livelihoods that were dependent on the swamp, the special rights of the fishermen, deemed inclusion of the land in POB and the fears and apprehensions of the local people. He described the wetland as a "waste" land, either out of sheer ignorance or to benefit the company deliberately.

ECEPL's "paid" consultant prepared an Environment Impact Assessment (EIA) report more to the liking of the company than for any genuine public consultation process. A "public hearing" was held in a hurry, where all those who supported the project, including a legislator, sat on the dais and delivered long speeches eulogising the project and its promoters, while the voices of those that opposed it were deliberately put down.

The district collector was a silent witness to ECEPL levelling the site as a prelude to project construction, even though it went against the mandatory requirement that no such work should be undertaken without prior environment clearance. The work was not authorised by the state irrigation department. It contravened the state's Water, Land and Trees Act, 2002.

People's Movement

ECEPL had repeatedly made a mockery of the law of the land, with implicit and explicit support from the state. At every stage, the state took the side of the company to the detriment of the people. At every stage, in the face of the authorities being unwilling to give out the correct information on the site, the locals had to invoke the provisions of Right to Information Act to extract information from them.

When the majority of the villagers in the surrounding 29 villages found that their agricultural lands were facing submergence as a result of the company's activity at the site, they joined the fishing communities of the three villages, Vadditandra, Akasalakkavaram and Kothur to impose a non-violent blockade against the movement of the company's vehicles from mid-2010 onwards. The families which would lose out on salt farming also joined the agitators. They were all worried about the likely impact of pollution from the project on the water in the wetland, on its ecology and on the other water sources, including the groundwater aquifers and the sea. They realised that

most of the 700 odd jobs that the project had offered would go to outsiders with better skills, whereas the local villagers, hardly trained for such jobs, would at best become sweepers and watchmen. Thousands of proud farmers and fishermen would lose their livelihoods and stand reduced to the status of daily wage workers.

The company was anxious to remove the blockade. It knew it had the State's coercive power at their command. Thousands of policemen started moving into Kakarapalli area from the third week of February 2011. Some of the local concerned citizens, who thought that such issues could be resolved through democratic and non-violent means, appealed to the chief minister of Andhra Pradesh and the union environment minister to intervene immediately, start a dialogue with the people, investigate the company's misdeeds, and allay the fears of the villagers. Neither the State nor the Union relented. That was how the situation at Kakarapalli culminated in the bloodshed of 28 February 2011.

What happened after this was easily predictable. Leaders of the political parties in opposition, who were to be rarely seen supporting the cause of the people at Kakarapalli prior to the incident, rushed to the spot to draw whatever political mileage they could. Even those who had patronised the company consistently shed crocodile tears for the people. The State continued to defend its brutal action and tried to misinform the people that Kakarapalli was not a wetland. When questions were raised in Parliament, the union minister of state for environment and forests condescended to announce suspension of work at the site and ordered a review of the case by the EAC. There is no guarantee if our rulers will ever introspect enough on what their officials did at Kakarapalli and try to understand the term "development" in a people-centric manner. One is not sure if they will realise that public consultation is the pillar of our Constitution and

listening to the voice of dissent is a duty that our democracy casts upon them.

Current status of the project

The union MoEF announced suspension of work at the site and ordered a review of the case by the EAC.

Case IX

Nagdi People's Movement against Land Acquisition, Ranchi (Jharkhand)

– Ramdev Vishwabandhu

Background

Starting from the 1765 Diwani to British East India Company, through 1793 Permanent Settlement, and leasing of land to Tatas in 1904, Adivasis are losing their lands. The Jharkhand Government plans to grab land of 35 villages for campuses of IIM, Law College and Triple IIT. And Nagdi was a test case where 227 acres of fertile land was separated and boundary wall built. In fact, land is heritage in tribal areas, not property. Chhotanagpur Tenancy Act is violated. But, Nagdi people's movement against land alienation continues, they have papers and they are not giving up the struggle.

People affected

At Nagdi, Kanke in Ranchi, 227 acres of fertile land is snatched from people. In 1957-58, there were 153 owners of land in Nagdi when government tried to take over the lands under dispute. At that time also, 128 owners of land refused to take any money in exchange for land. The government says the lie that the said land has been acquired for Ranchi Birsa Agricultural University, about which the university has no information. They do not want to give up fertile agricultural land. So the struggle continues.

Ecological-environmental issues

All the developmental activities done so far involve pollution, and no corporates genuinely take any precautions. Instead they pollute the

water streams and air. Here, people are still not clear for what purpose the land is being snatched.

Free Prior Informed Consent and national and international laws being violated

At Nagdi, Kanke in Ranchi, the government prepared papers for fraudulently acquiring 227 acres of land. On the basis of such papers it claimed to acquire the land. However, when Dayamani Barla asked for information under the Right to Information Act from the Land Acquisition Department, their reply clearly stated that in 1957-58, there were 153 owners of land in Nagdi. Of these 128 refused to take any money in exchange for land. The government says that the said land has been acquired for Ranchi Birsa Agricultural University. When she asked the Birsa Agricultural University for information in this connection, they said that they had no information regarding land acquisition. On the other hand, indigenous landowners have been cultivating the said land for ages and are doing so even today. They have also been paying taxes to the government till 2012. Peasants have been resisting selling land since 1957-58. People are not against educational institutions. They want institutions to come up, but not on their fertile lands but on infertile wastelands. However, government is fraudulently making papers.

Despite legal protection such as CNT Act 1908 and Santhal Pargana Tenancy Act, 5th Schedule and 6th Schedule provisions in the Constitution, the state government is violating them with impunity and illegally acquiring the lands, forests, rivers, mountains of indigenous tribal communities. At the same time, it is handing them over to corporate entities. The government is illegally snatching the forests, fertile agricultural lands and water sources of indigenous farmers after signing Memorandums of Understanding (MOU) with mining companies. Wherever the government is acquiring land in the name of development or for companies or factories or for mining, it is not

seeking permission of either the owner or the villagers or the Village Councils. Neither is it seeking assent of the villagers. Wherever it feels like acquiring land, it is doing so using violence and terror using the police.

People's Movement

Struggle of Adivasis of Nagdi village near the capital Ranchi, against the attempt to grab 227 acres of fertile land, is going on. The land in question was acquired on paper way back in 1957. But even then, Adivasis waged a successful struggle, refused compensation, and retained effective control of the land. Since then the land has been cultivated every year by the Adivasis, who even have proof of having paid land revenue till very recently. Some months back, the Government, seeking to regain control of the land, constructed a boundary wall around the proposed site. But the Adivasis of Nagdi and all 35 villages launched a determined agitation. They began an indefinite dharna in April end, which was led by activist Dayamani Barla, who later became the first recipient of the Ellen L. Lutz Indigenous Rights Award from the Cultural Survival group.

Though both the HC and SC rejected the Adivasis' petition, they refused to accept defeat. A massive protest meeting was organised in May which was addressed by left movement and Adivasi leaders. A Bandh was called in the wake of the protest. Dayamani Barla, CPI (ML) Liberation, Marxist Coordination Committee, AIPWA leader Guni Oraon, Shri Ramdev Vishwabandhu from Giridih, etc. among others are actively helping the Nagdi people lead the agitation.

On 4 July, the Nagdi Adivasis broke the boundary wall and faced a severe lathi-charge. CPI (ML) held a protest march the next day in Ranchi, as did other Left parties and Adivasi organisations. The Nagdi protestors blockaded the main road from 5-7 July; many leaders addressed the mass meeting at the blockade site. On 9 July, the Nagri

protestors held a militant Raj Bhawan March, where they clashed with the police; however, after persuasion, their memorandum could be submitted to the Governor.

On 12 July, the All India Kisan Mahasabha held a Convention against the corporate grab of land, forests, water, and minerals. Representatives of struggles against corporate loot as well as a range of mass organisations, intellectuals and social activists participated in the Convention, which emphasised the need for broad-based unity in the struggle against corporate plunder of resources and displacement of Adivasis and peasants.

As the villagers' resistance movement continued against government's forcible snatching of these lands, dozens of false cases were foisted on the people. Four persons were imprisoned in July 2012, which included two females. Thereafter, Dayamani Barla was imprisoned for two and a half months under a false case. Dozens of village women have false police cases against them.

The government says that those getting displaced will be compensated. At the same time they will also be rehabilitated and given alternative housing. But the question is – what would the government and the companies compensate for? Can they re-establish and rehabilitate their pure air, pure food, rivers, waterfalls, language and culture, sacred religious site Saran-Sasan Din, their identity and history? No, that is absolutely impossible. Nor can it ever be compensated for. The indigenous communities believe that history cannot ever be rehabilitated.

As Dayamani Barla states, "We are not anti-development. We want development but not at our cost. We want development of our rivers and waterfalls. We want development of our forests, mountains, ecology and agriculture. We want development of social values, language and culture. We want development of our identity and our

history. We want that every person should get equal education and healthy life. We want polluted rivers to be pollution free. We want wastelands to be turned green. We want that everyone should get pure air, water and food. This is our model of development."

Current status

The dispute continues. Land is being snatched. Land Acquisition Act of 1894 is not applicable in Chhotanagpur area, where Chhotanagpur Tenancy Act (CNT) 1908 is in force. According to CNT Act (Art. 46 A (1)), non-tribal cannot buy or purchase tribal land. Many articles like 46, 47, 48, 49, etc. have been incorporated in the 9th Schedule of the Indian constitution. Court has no right to think over the provisions which are included in the 9th schedule. This special provision came into being on 20 June 1978. Nagdi area comes in the area of CNT. It also comes in 5th schedule of the constitution. This is in Panchayat (Extension to the Scheduled Areas) Act of 1996 (PESA) area where Gram Sabha has power to take decision, not state or central governments. There are two types of laws in India – General Law and Special and local law. In the case of urgency, Special and local law will work. General Law cannot override on Special and local law.

Even when the Land Acquisition Act is applied, for argument's sake, Raiyat (occupant) of Nagdi has legal right on their own land. According to Article 48 of the Land Acquisition Act, if acquired land is not utilised, land should be returned to the raiyat. In Nagdi, land was not utilised for 56 years by the Govt. So raiyat has legal right. Jharkhand High court has intervened more than 5 times. According to 9th schedule of the constitution court has no right to intervene on the land where CNT Act applies. Even Governor of the Jharkhand has not exercised the power invested in him regarding 5th schedule area (PESA).

Case X

Struggle of Zadva Pastoralists for Commons, Lakhpat Block, Kutch (Gujarat)

– Dineshbhai Desai

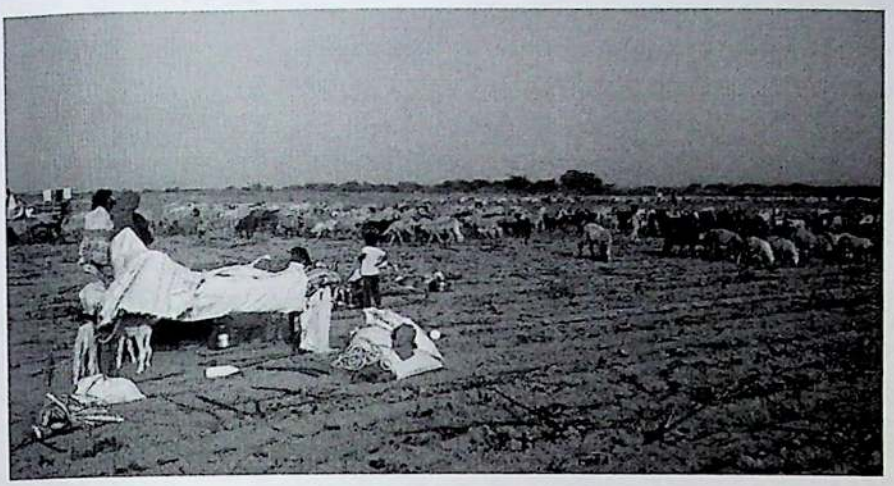
Background

Lakhpat block of Kutch district is plenty in limestone. Continuous earthquakes resulted in a land of limestone. Zadva village was established on this soil, 503 years back. This is what attracted Sanghi Company to lay its feet on this village 20 years ago in 1994. It was estimated that annually 26,00,000 metric tons of cement will be produced accounting to 2 crore metric tons of cement till 2020. With this estimation, 1543 hectares of land from the total 3043 hectares of village land was given by the government to the company. Of this land parted, 60-70% was grasslands, wasteland, outskirts of the village and rest was land owned by individuals. A total of 118 acres of land was sold off for Rs. 20,000 by 16 Rabari families to the company. Now, economy has become dependent on the company. Pollution has escalated. They are losing their common grasslands. They have worried about their future generation and started strategies to oppose the company.

People affected

Kutch is the biggest district (area wise) of Gujarat state. Zadva village of Lakhpat block (Kutch district) was established 503 years back. Presently there are 140 pastoralist households accounting for a population of 1000. The villagers here are mainly involved in animal husbandry, dairy, labour work and daily labour in companies. There are 130 animal owners in the village and the livestock counts to 900

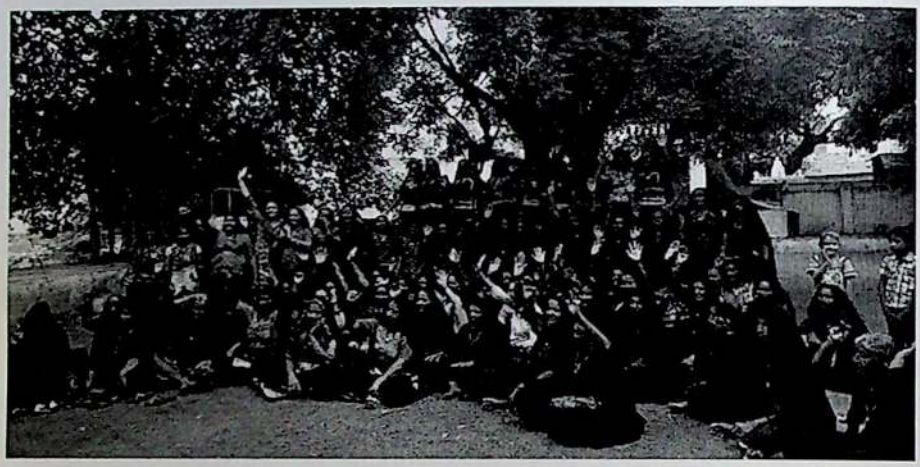
cows, 1400 Buffaloes, 650 sheep and 200 Goats. There are only 18 families that possess land for farming.



Now, people are dependent on the company for employment. They feel in such a dry and deserted village there are no other sources of livelihood. Now, at least two members per family work in the company. The average monthly income per family is Rs.15000. This has made them financially stable. There are pucca houses with roofs. Every family possesses a vehicle for transportation.

But, culturally and politically they are divided. Rabari families lived peacefully and harmoniously 20 years ago. All families used to get together during weddings and festivals and celebrate them with unity. However, today there are conflicts. Social norms have changed. People don't have time for each other; people have become selfish and avoid public or community celebrations. Dirty politics is troubling the harmony among people. The two major parties, Congress and BJP, are no party to developmental activities taking place in the area. The party which has the company's support wins and only their people are given employment. After the elections, the party people don't bother to take care of the village issues.

Villagers now put their children to school to study. Both sons and daughters study. The new generation will be educated and will be able to take proper decisions for themselves and the village. Villagers say, "Our deeds / mistakes are because of illiteracy, lack of information and guidance". Earlier children used to study in company's school when transport facility was provided. However, they now go to government school where no such facility is provided. This has strongly affected their education.



Ecological-environmental issues

The environment has been polluted by the company. Dust blows when the plants operate. This has led to breathing problems, throat, eyes and skin infections. Illness and ailments have increased which has led to higher medical expenses. The air smells dirty.

Free Prior Informed Consent and national and international laws being violated

Firstly, government took a decision to transfer village lands. Part of the lands (118 acres) was purchased from 16 Rabari families at

miniscule rate of Rs. 20,000 per acre. And people were not aware of the impending problems going to be created by such a company. Secondly, during the land acquisition, there were no written agreements signed between the Gram Panchayat of Zadva village and the company; only verbal discussions were held during meetings with the village people. A GR was passed at the Gram Panchayat and public hearing took place wherein people's consent was taken.

During the *Jan Sunvai* (people's hearing), the following rules and promises for primary facilities were made:

- Villagers will get employment, and young boys will be given permanent jobs.
- School, Balwadis and health centre will be set up in the village.
- Drinking water facilities will be provided to the people as well as animals.
- Arrangement for Fodder will be made and a Goushala will be established in the village.
- Medical/health camps will be organized for the villagers and care will be taken to keep the environment clean and healthy.

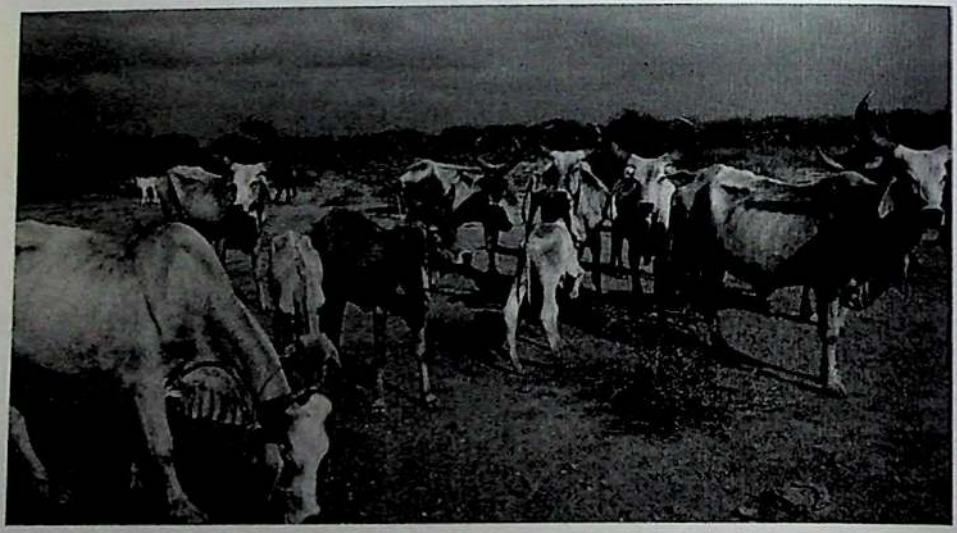
In the beginning a balwadi was set up in the village. However, it closed down after one year. No other promises were kept and no steps were taken to take care of the primary facilities for the villagers and their health and environment.

People's Movement

To get back the control over their land, numerous efforts have been made. Villagers have got together and held meetings. Documents have been prepared for the struggle. Lok Sangharsh Committee has been formed. Meetings at village and Block levels with officers have been

held. People have carried out rallies and dharnas. A meeting was held with the collector and magistrate and memorandum was submitted.

Gram panchayat has filed a case in High Court against not keeping up the promises made by the company. They want the company to follow its regulations and fulfil its promises. The 118 acres of land sold by 16 farmers to the company is not used by the company. In Panchayat record, this land has been noted under the name of the company's trust (under 7/12). To strengthen the people's village and block level committees and unite them to fight back, two organisations, namely Marag and MVS are working simultaneously by carrying out proper legal action.



Current status

Fear prevails among villagers now. A villager states, "We have been battling against the company since last 20 years, but we fear how it will trouble/harm our next generation. We fear some big natural disaster looking at the amount of digging taking place in our lands. Currently, no outsider or any other company employee dares to enter or settle down in our village. However, after the company takes hold

of the 1543 hectares of land we fear our existence. We fear that the company will take complete control over our natural resources: land, forest, animals, water and humans." Legal and agitational means are adopted to get their lands back and stop the company that pollutes.

Case XI

Women's Access and Ownership of Land A Case of Mizoram State in India

– Saroj Arora

Background

This study focuses on land related customary laws in Mizoram. It describes how patriarchy embedded customary laws denied women from inheritance rights and restricted their participation in public domain. It points out that due to commercialization of agriculture; there is a shift from community land to settled land. with the result, women are gradually losing access and control over community land and common property resources. It has a direct bearing on their status. To remove the existing anomaly, women's organizations pressurized the state to bring changes in the socio legal system. After much of resistance, the state assembly enacted two important legislations viz. the Mizo Marriage, Divorce and Inheritance of Property Act, 2014 and The Lushai Hills District (Village Council) Act, 2015. Women's organization appreciated the initiative taken by the State Government.

Mizoram, land of the highlanders, is a tongue-shaped state in the northeast region of India. Mizoram, in the local language, means the land of *Mizos*. 'Mi' means human/ people, 'zo' means hill and 'ram' means land. Thus, the term '*Mizo*' itself means highlander. Mizoram is a hill state- largely inhabited by tribal population. Almost 95.0 per cent population of the state constituted of Scheduled Tribes (Census 2011). It has 14 communities notified as Scheduled Tribes (STs). Each tribe has several sub tribes and each sub tribe has their own practices and language. Based on linguistic criteria tribal community differs from other. The state is rich in nature and culture. It touches boundaries of three Indian states – on the north by Cachar District of Assam and

Manipur, and on the west by Tripura. It touches international boundaries with two countries – on the east and south by Chin and Arakan Hills of Myanmar (earlier known as Burma), and on the west by Chittagong Hill Tracts of Bangladesh. Due to a difficult geographical terrain and physical isolation, British made special provisions such as Inner Line Regulation, 1873 to protect and regulate the land, to prevent the entry of people, businessmen/ traders and contractors from the plains, to debar the non-tribals from owning landed property in the state and to protect the tribesmen from exploitation. The regulation was allowed to continue even after post-independence period.

The present study attempts to understand the land system in Mizoram in general and gender and land relationship in particular. It also highlights the role of women's organization in pressuring the state to amend gender biased customary laws related to marriage, divorce, inheritance and membership in village council and bring gender parity through legislation. Before discussing gender and land relationship, it would be important to understand the socio demographic profile of the state of Mizoram and the situation which has led to the formation of the present day of Mizoram and land administration.

In comparison to many other states, Mizoram stands high on social indicators such as literacy rate, sex ratio and participation in workforce. As per Census 2011, Mizoram has population of 1,091,014 lakhs, an increase from figure of 8.89 lakh in Census 2001. Out of total population 50.63% were male and 49.37% were female. Literacy rate in the state has upward trend. It was 91.33 per cent as per 2011 Census. Of that, male literacy stood at 93.35 percent while female literacy was at 86.72 percent. The gender ratio has also increased from 938 per 1000 males in Census 2001 to 976 female for 1000 male in Census 2011.[9] This was above national average of 940. Majority of the

[9] Census (2011), Mizoram, Directorate of Census Operations.

Scheduled Tribes population in Mizoram (90.5 per cent) has been reported as Christian (Census 2001). The Buddhist at 8.3 per cent constitutes the second largest religious group. Chakma are the main followers of Buddhism. Remaining (1.2%) was from other communities. The rural –urban population ratio is different from many other states in the country. The distribution of population is almost equal in urban and rural areas *viz.* 52.11 per cent people live in urban area and the remaining 47.89 per cent live in rural areas. 51.7 per cent of the population has been registered as workers among the STs (Census 2001). This is significantly higher than the national average of 49.1 per cent recorded for ST population. 55.3 per cent males and 48.1 per cent females were workers, thus showing almost equitable participation of both males and females in workforce. 67.2 per cent ST females were the main workers, which is significantly higher than 53.3 per cent recorded at the national level for ST female workers (Census 2011).[10]

A Historical Perspective

(Lawrence) The *Mizos,* earlier known as *Lushais*, came from Burma into India during A.D. 1600-1700. The term 'Lushai' was how the British pronounced it though the actual term is 'Lusei'. In fact, Mizo is a collection of several tribes (almost 20-30 tribal communities) and '*Lusei'* is a common language of these tribal communities. During this period, the traditional village level institutions were more powerful. Each village had an autocratic chief to manage the village affairs. The chief played multiple roles – supreme administrator, judge, protector and guardian of his village, running village administration with a council of elders locally known as '*Upas*' (Das 1990).[11]

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[10] Census (2011), Office of the Registrar General, India.

[11] Das, J.N. (1990), *A Study of the Land System of Mizoram,* Guwahati, LRI, Eastern Region, Gauhati High Court, p. 7.

Thus, Mizoram, formerly known as the Lushai Hills District, was a part of Assam. The district administration in the then Lushai Hills District began in 1891 when the territory was divided into two administrative wings – the South Lushai Hills District, a part of West Bengal, and the North Lushai Hills District, a part of Assam. Prior to 1891, there was no proper administrative set-up. The Lushais were independent tribes till the British annexed and proclaimed it as a part of dominion on 6 September 1895. In 1898, for administrative convenience, both the hill districts (South Lushai and North Lushai) were merged by the British into one single district namely Lushai Hills district and transferred to Assam under the administration of the chief commissioner of Assam (Lalneihzovi 2006).[12] For effective administration, the British government further divided the district into two subdivisions, namely Aizawl and Lunglei. Thus, 1898 was the beginning of settled administration in the district. In 1919, the Lushai Hills District was declared as '*Backward Tract*' under the Government of India Act 1919. Later on, due to geographical isolation of the area, it was declared as '*excluded area*' under the Government of India Act, 1935.

Soon after independence, the process of nation state making has started in the northeast region and boundaries were demarcated for the overall stability and revenue generation (Baruah 1999).[13] For land administration various land laws came into force in Assam (excluding hill areas) valley of Manipur and Tripura. Agricultural land was settled on individual basis. Bardoloi Committee recommended maintaining autonomy of the hill region of Northeast under the Sixth Schedule of

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[12] Lalneihzovi (2006), *District Administration in Mizoram – A Study of the Aizawl District*, Delhi, A Mittal Publication, p. 27.

[13] Baruah, S. (1999), *India against Itself: Assam and the Politics of Nationality*, Delhi, Oxford University Press.

the Constitution. The purpose of making such constitutional provision for the hill region was to protect tribal land, their customs and also to check social injustice and exploitation. Therefore, the land in the hill areas was allowed to manage by the traditional institutions through the customary laws. District Council at the district level and Village Council at the village level were empowered in the matter of decision making on land and forest related issues, regulation of jhum practice or other forms of shifting cultivation as per their customary laws, etc.

The Lushai Hills was made an autonomous district of Assam (in which year??). As a result, *Mizo* Hills Autonomous District Council for the *Mizos* in 1952 and the Pawi Lakher Regional Council (PLRC) for the Pawi, Lakher and Chakma tribes were set up in 1953 under the provisions of the Sixth Schedule. The name of the Lushai Hills District was changed to the *Mizo* Hills District with effect from 1 September 1954 vide an Act of Parliament called 'The Lushai Hills District (Change of Name) Act, 1954 (18 of 1954).

Gradually the leaders of the erstwhile *Mizo* Hills District Council built political pressure for larger autonomy for the area. With the result, the North East Areas Reorganization Act, 1971 came into force. As per the provisions of this Act, the *Mizo* Hills District was carved-out of the then state of Assam and elevated to the status of Union Territory (UT) of Mizoram on 21 January 1972 (Prasad 1998).[14] After attaining the status of UT, Aizawl district which was the only district at that time was trifurcated into three districts, viz., Aizawl, Lunglei and Chhimtuipui (Lalneihzovi 2006).[15] The Pawi-Lakher Regional Council was also trifurcated for each of the three tribesmen viz. Pawi, Lakher and Chakma. Chhimtuipui comprised all these three Autonomous

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[14] Prasad, R.N. (1998), *Public Administration in North-East India*, New Delhi, Vikas Publishing House, p. 17.

[15] Lalneihzovi (2006), *District Administration in Mizoram – A Study of the Aizawl District*, Delhi, A Mittal Publication, p. 23.

District Councils (ADCs). The Lai ADC was the largest council among all three of them. These regional councils were later elevated to the status of the ADCs in 1972 under the Sixth schedule which recognizes the customary rights of tribal communities in these areas, and gives a considerable amount of protection over their lands, forest, customs and village chief-ships. The state and Union legislations are not enforceable unless approved by the District Council (Lalneihzovi 2006).[16] ADCs administer revenue land as per ADC Land Holding Act. Land Ceiling Act has not been passed by them. In due course of time, traditional village chief became more powerful and exploitative, consequently, Mizo youth decided to curb their exploitative tendencies. Thus, to eliminate the exploitative traditional village chief ship system, the Assam Lushai Hills District (Acquisition of Chiefs' Right) Act, 1954 came into force. The village-level democratic institution was introduced by enacting the Lushai Hills District (Village Council) Act, 1953, and the Pawi-Lakher Autonomous Region (Village Councils) Act, 1954. Under the Village Council (VC) Act, 1953 and 1954, the VC has functions and powers as provided for by the Sixth Schedule (Lalneihzovi 2006).[17]

In 1959, a famine *Mautam* took place due to rapid increase in the rat population and destroyed paddy crops throughout the *Mizo* Hills. It has become a turning point in the history of the present day Mizoram. The *Mizo* National Famine Front (MNFF) was constituted to help the local community suffering from famine. The MNFF renamed itself the *Mizo* National Front (MNF) in 1961. The MNF approached the Union Govt. for the assistance. The apathy from the local administration and negligence to the assistance during famine led to insurgency during the sixties which continued till mid-80s. After much upheaval, unrest and

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[16] Lalneihzovi (2006), *District Administration in Mizoram – A Study of the Aizawl District*, Delhi, A Mittal Publication, p. 52.

[17] Lalneihzovi (2006), *District Administration in Mizoram – A Study of the Aizawl District*, Delhi, A Mittal Publication, pp. 98-99.

conflicts in the *Mizo* Hills District, the Memorandum of Settlement was signed between GoI and the MNF in 1986. 53rd amendment was made in the Constitution and Article 387G was introduced which recognized customary rights of *Mizos*, that included community land, common property resources and ownership and transfer of land, social practices, religion and administration of civil and criminal justice. On 20 February 1987, the UT of Mizoram attained the status of statehood and became the 23rd state of the Indian Union (Prasad 1998).[18] Thus, in comparison to other states, Mizoram can be considered as one of the newly born state in the region. (Lawrence) The administration of the VCs has been put under the Local Administration Department (LAD) except in Municipal Council Area where VC is called as Local Council (LC) which comes under Urban Development & Poverty Alleviation Department over which, the State Govt. and the District Council exercise their jurisdiction independently. Of late, in 2011, the state has enacted the Municipal Council Act which is in force only in the city area of Aizawl district.

Land System and Gendered Space

The land system in Mizoram varies from many other states. The state never had land tenure system. The landholders themselves managed and looked after their land. But when British annexed Lushai Hills, they settled residential plots, shops and wet rice cultivation plots in notified town areas. During post-independence period, a VC was competent to allot house sites within its jurisdiction for residential and other non-agricultural purposes except inside notified town area where Govt. (Revenue Deptt.) is given authority (House Sites Act 1953).[19] Community land and customary laws were protected under Article 387G of the Constitution. Revenue land in the notified areas is settled

[18] Prasad, R.N. (1998), *Public Administration in North-East India*, New Delhi, Vikas Publishing House, p. 111.

[19] House Sites Act (1953), The Lushai Hills District (house site) Act.

by the Revenue Department. Land is settled on individual basis. LAD administers community land.

This section deals with land system as exists prevailing in the state of Mizoram in general and women's relationship in particular. It discusses women's participation in jhum cultivation, pattern of men women owning land on individual basis, prevalence of land tenancy and status of land ceiling, and changes taking place in land use pattern, etc. Land system in Mizoram can broadly be classified into two categories – Community land, and Revenue land.

Community Land

Vast land in Mizoram is community land. Community land and common property resources play a vital role in the lives of local communities. Community land can further be divided into three categories viz. i. Jhum land, ii. Community forest / wasteland and iii. Grazing land. Over all administration of community land comes under the jurisdiction of LAD. A brief description on each of these categories of land is given below:

i. Jhum Land:

Jhum or shifting cultivation is the most popular and widely practiced agriculture method in Mizoram. More than 70% of the state populations are dependent on jhum cultivation. Local crops such as paddy, maize, mustard, sugarcane, sesame and potatoes are cultivated on jhum plots. VC constituted for the rural areas has full authority to control Jhum land under the Jhum Regulation Act as amended from time to time. VC allots jhum plot generally to male head of the household but both men and women in the family work together and participate actively on jhum plot.

ii. Community Forest/Wasteland:

As far as community forest is concerned, these are mainly of three types:

Village supply reserve forest -on which VC has the full authority. Villagers both men and women have access to this forest and they collect fuel wood, house building materials like bamboo or cane, etc. as per their requirements.

Village safety reserve: It ensures safety of the village. This is maintained ever green and never allowed to be cleared for cultivation; and

Protected forest: it is maintained with the purpose of saving the endangered species of plants.

iii. Grazing land:

In some villages, few patches have been demarcated as public *grazing area.* On some limited area, VC takes care of grazing land and the remaining area is taken care of by LAD. Both men and women have access to grazing land.

This is important to mention that the above mentioned categories of community land provide usufruct right over land and administered through customary laws. VC is the custodian of this land. Both men and women have access to the the community. In fact, women are more closely linked with jhum, community and forest land for the sustenance of their households. No land records are maintained for the community land. It is said that proper records of community land are neither available nor easy to maintain. Besides maintaining land records for vast tract of land in hill areas is a gigantic, herculean and very expensive task. It requires altogether a different survey technology.

As mentioned both men and women actively participate in jhum cultivation and take joint decision related to agricultural crops and produces. However, recently, a debate is on about the negative implications of jhum cultivation on the pretext of environmental concerns. The state Govt. is making concerted efforts in persuading people to get away from Jhum cultivation and shift towards settled cultivation. Under the New Land Use Policy (NLUP), people are being encouraged to grow commercial crops on settled land or opt for nonfarm activities. It is observed that usually land is settled in favour of a male member of the household. With the result, all the benefits of the Govt. Schemes related to bank, finance, and technology and extension education are extended to male members. Women are denied access to these benefits. Not only this, even women heading households are not counted as head. In the changing scenario, women are losing their access and control over land. This is leading to their marginalization.

Revenue Land

The revenue land is of four types, viz. 1. Land on pass basis; 2. Periodic *patta*; 3. Land with Land Settlement Certificate and 4. Land lease.

Revenue land is allotted for two purposes viz. the residential and the agriculture. Agricultural land includes food and horticultural crops, wet-rice cultivation, cattle farm and fish pond, etc. Allotment of house site is regulated by the Lushai Hills District (House Sites) Act, 1953. Revenue department settles house site land in urban /notified town areas (House Sites Act 1953).[20] The revenue land is administered by the revenue laws. Earlier, there were plethora of land laws, many of which were found over lapping, complicated, redundant and gender

[20] The Lushai Hills District (House Sites) Act (1953), The Lushai Hills District council, Assam Gazette, p. 2.

biased. To overcome this, the State Govt. has recently introduced the Mizoram Land Revenue Act, 2013 and the Mizoram (Land Revenue) Rule, 2013. Under the new Act, widows have been given a preferential treatment. This Act has repealed all previous land related Acts. These land laws extend to the entire state except the areas under three ADCs. Revenue Department maintains land records. A brief on all four types of revenue land is as follows:

House pass is issued for residential purposes. House pass extends the 'temporary right of use' and occupancy over a specific plot for a stipulated time frame. A pass holder has no right of transfer, or of inheritance beyond the period of the pass or of sub-letting (Land & Revenue Act 1956).[21] The 'periodic *patta*' gives 'user right over land'. Periodic *Patta* is a prescribed land document settling the agricultural land periodically under the specified rules whereby an individual or society has entered into an engagement with the District Council to pay land revenue and taxes and rates legally assessed (Mizo District (Agricultural Land Rules 1971).[22] If the beneficiaries/landholders of periodic patta use the land satisfactorily then he/ she can apply for a land settlement certificate, which extends permanent ownership of land. There are lacunas in land laws. For instance, through there is a ceiling on the size of land holding of periodic patta yet there is no ceiling on the number of periodic *patta* a person can hold. Periodic patta is used either for cultivating horticultural crops or commercial crops such as timber, spice, tea/coffee plantation, vegetables, palm and seri-culture, etc. (Singh & Arora 2012).[23] Discussion with the revenue officials revealed that mostly men have periodic *patta* in their name. Only few women have periodic patta. The third category is land with

[21] The Mizo District (Land & Revenue Act, 1956), p. 8.

[22] The Mizo District (Agricultural Land) Rules, 1971, p. 41.

[23] Singh, P. & Arora S. (2012), *Evaluating Revenue Administration and Land Records: Their Strengthening and Updating in Mizoram*, Mussoorie, Uttarakhand, Centre for Rural Studies, Lal Bahadur Shastri National Academy of Administration.

Land Settlement Certificate (LSC). LSC extends permanent ownership rights on land to an individual. This category of land gives 'heritable and transferable right of use' on or of sub-letting in his/her land subject to the payment of all revenue and taxes from time to time. Ex-servicemen are exempted from paying tax on land with land settlement certificate for one residential plot and one agricultural plot each. But if ex-serviceman has more than one parcel of land with LSC, he has to pay for rest of the plots. District-wise data on land settled on LSC basis shows that maximum number of land plots (117,455) were allotted in Aizawl district – a state capital followed by Lunglei district (32,894); Mamit – one of the backward districts in the state has less number of people allotted records with LSC (DLR & S 2009).[24]

Wet-rice cultivation (WRC) was promoted in the valley areas of Lushai Hills (now Mizoram) by British and[25] certain rights were conferred which continued till now (Das 1990).[26] During 2007-08, the total area under wet-rice cultivation was 9,594 hectare. District-wise comparison shows that maximum area under WRC was in Kolasib district (3,515 hectare) followed by Champhai district (2,374 hectare). These two districts have ample flat land (Directorate of Economics and Statistics 2008).[27] Both men and women work on WRC plots but most of the WRCs plots were settled in favour of men.

In fact, the Revenue department does not maintain sex segregated data; hence, it was difficult to find out the actual number of men- women owning revenue land in their name. However, sex segregated data on land ownership could be collected for four VCs namely Rangvamual,

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[24] Directorate of Land Revenue & Settlement (2009 December), Govt. of Mizoram.

[25] Das, J.N. (1990), *A Study of the Land System of Mizoram*, Guwahati, LRI, Eastern Region, Gauhati High Court, p. 16.

[26] Ibid; McCall-A.G., The Lushai Hills District, Section G. (Sl 61 & 66).

[27] Directorate of Economics & Statistics (2008), *Statistical Handbook Mizoram*, Aizawl, p. 24.

Sairang, Sakawrtuichhun and Tanhril in Aizawl district. These land plots were allotted during 1976-2010. It was found that in all these four VCs areas, total 1734 persons were found owning land in their name. Out of them 1477 (85.18%) were men and 257 (14.82%) were women. VCs wise break-up shows that in Sairang 84.53% men and 15.47% women owned land; in Sakawrtuichhun 87.54% men and 12.46% women owned land and; in Tanhril 85.17% men and 14.83% women owned land. Similarly in Rangvamual VC 85.71% men and 14.29% women owned land (DLR&S 2015).[28] Thus, based on the data, it can be said that majority of men in comparison to women owned land in their name in the state of Mizoram (Table below).

Number of Men Women Owning Land in their Name (1976-2010)

Sl.No.	Name of Village Council	Men No %	Women No %	Total (row %)
1.	Sairang	956 (84.53)	175 (15.47)	1131 (100.00)
2.	Sakawrtuichhun	267 (87.54)	38 (12.46)	305 (100.00)
3.	Tanhril	224 (85.17)	39 (14.83)	263 (100.00)
4.	Rangvamual	30 (85.71)	5 (14.29)	35 (100.00)
	Total	1477 (85.18)	257 (14.82)	1734 (100.00)

Source: DLR & S, March 2015

The fourth category of land is *land lease.* This gives the 'right to use'. For government office establishment, the lease period is for 25 years and lease period for NGOs is 10 years. In certain cases, lease period was for 99 years.

[28] Directorate of Land Revenue & Settlement (March 2015), Aizawl, Govt. of Mizoram.

Zoramchhia

Apart from revenue tax, the state imposes tax locally called as '*zoramchhia*' on land and man. It is levied on every family even if it is landless or living in a rented house in town and rural areas in the state, unless exempted by the administrator on grounds of dire poverty. This tax is a legacy of the British which continues till date. Article 276 of the Indian Constitution has provision for this tax. Revenue department collects zoramchhia. The landless and women headed households find it difficult to pay this compulsory tax with their meagre or no income at all.

Need for Land Reforms Initiatives

Unlike other states, there is no land tenancy act in Mizoram therefore; no tenancy records are maintained. However, in practice, cases of concealed tenancy were found prevalent in the state in general and in Champhai and Kolasib districts, in particular. A study shows that out of total households surveyed, a little more than one-tenth of them (11.22 per cent) were leasing-in land and the remaining 88.78 per cent were not (Singh & Arora 2012).[29] Notably, cases of tenancy could be found in areas where labour-intensive crops such as WRC or coffee plantation were cultivated. Although land was leased-in by male head of the households but both men and women were found working on leased-in land.

The minimum and maximum limit of land holding in the state is regulated by the Mizoram Land and Revenue Act, 1956 and its rule 1967. A minimum ceiling for settlement of house plot is 500 sq. ft. and maximum is one bigha (14,400 sq. ft.). Similarly, no agricultural land exceeding 30 bigha is allotted or settled either temporarily or

[29] Singh, P. & Arora S. (2012). *Evaluating Revenue Administration and Land Records: Their Strengthening and Updating in Mizoram*, Mussoorie, UK Centre for Rural Studies, Lal Bahadur Shastri National Academy of Administration.

permanently without the prior permission of the Executive Committee (Mizo District Agricultural Land Act, 1963).[30] This limit is applicable to the whole of Mizoram excluding the three ADCs areas. It was found that although there is a limit on the size of residential plot and agriculture land, yet in practice, a person can have as many plots at different places locations as he/ she can. It shows a serious lacuna in the Land Ceiling Act which is often being exploited by the rich people who accumulate land in their favour. Mizoram has yet not passed the Land Ceiling Act. There is a growing demand from various associations, such as – Young *Mizo* Association (YMA) and Mizoram *Kohhran Hruaitutu* Committee for enactment of land ceiling. Revenue officials were of the view that so long land is settled on piecemeal survey basis, it will remain difficult to find out how much land parcels are owned by an individual.

The District Revenue Office in every district is located at the district headquarter and no revenue office at block or circle level. The process of land settlement is very difficult and cumbersome. Women face problems as distances are longer and transportation is a problem.

Mizo is a patrilineal society. Following sections highlights women's status in inheritance laws in Mizo society.

Inheritance and Customary Laws: then and now (A Retrograde step)

In Mizoram inheritance of landed property is guided by the customary laws. The *Mizo Hnam Dan* is a book dealing with the codified customary laws of *Mizos* related to marriage, divorce, succession and inheritance of immovable and movable property such as land and house, etc. *Hnam* is a Mizo term which means customary law and *Dan* means *khel* (clan) and *Mizo* is a nomenclature of a tribal group. Thus,

[30] The Mizo District (Agricultural Land) Act, 1963, The Mizo District Council (received the assent of the Governor of Assam), p. 44.

the *Mizo Hnam Dan* means customary laws of different clans of *Mizo* tribe. A person can inherit property only after getting an inheritance certificate that has to be brought from the court. To settle transfer of land through inheritance Electoral Photo Index Card (EPIC) is produced as a proof. Mizoram is one of the pioneering states in the NE region which has codified customary laws including land related customary laws in 1980. Codification of customary laws means that the customary practices of tribal communities are approved by the Assembly. However, customary laws of Lai, Mara and Chakma ADCs are yet not codified.

A review of customary laws reveals that women did not have rights when it comes to marriage, divorce, succession or inheritance. The customary laws have denied women the right to inherit property including landed / immovable property among others. She was deprived of even gifts locally known as '*bungrua*' that were given to her at the time of marriage. Her husband could have divorced her without providing a financial assistance. Women were also denied participation in the decision-making process in VC and other legal entitlements.

The customary laws are being guided by the patriarchal norms and therefore, landed / immovable property was inherited by male descendants in the family. For instance, among *Mizos* community immovable property was inherited by the youngest son in the family while among *Paite* community, the eldest son inherited. Thus, according to the *Mizo* customary laws, the youngest son of the family was the natural or formal heir to his father who inherits landed property. However, the father may leave share to other sons, if he so desires. The *Mizo Hnam Dan mentions* that

> *The reason why the youngest son inherits is because he is supposed to support the aged parents. The youngest son*

cannot inherit all the properties merely because he is the youngest unless he supports the aged parents till death.[31]

In case, if a man had no son, his property was inherited by the next kin of the male descendant. If a man dies leaving a widow and minor children, a male relation (who usually happened to be a brother of the deceased) took charge of the family and looked after the property until one of the sons came of age. If no such male relative was around, then the widow acted as a trustee of her husband's property until such time as her sons became mature to inherit it. A divorced woman could also not claim over the family properties even if it was community properties, earned by her (Phelamei 2012).[32] Only in rare cases, one could find daughter inheriting the property. She inherited if there was a 'will' (Directorate of Information & PR).[33] A survey was conducted on 0 households to study the inheritance pattern and process in Lunglei own in Mizoram. It was found that out of 40 households, 9 households had acquired property by inheritance (2 by the youngest son, 2 were inherited by the eldest son, 3 by the only son and 2 by the widow), 7 by purchase, 17 by gifts and 7 by fresh allotments under LSC. Of the 9 inherited plots. Of the two cases of land inherited by the widow, in one, she was certified as legal heir by the magistrate and in the other, she inherited on behalf of the minor son (Das 1990).[34]

Although as per *Mizo* customary laws, women were not entitled for land yet instances of challenging the gender discriminatory customary

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[31] Das, J.N. (1990), *A Study of the Land System of Mizoram,* Guwahati, LRI, Eastern Region, Gauhati High Court, pp 168-169.

[32] Phelamei, S. (2012, October 17). "Mizoram: women's issues, development and migrants". Z News accessed on 10 July, 2015.

[33] Directorate of Information & Public Relations, Mizoram, pp. 27-28.

[34] Das, J.N. (1990). *A Study of the Land System of Mizoram,* Guwahati, LRI, Eastern Region, Gauhati High Court, pp. 168-202.

laws were seen taking place in the *Mizo* society. In this regard, one of the Assistant Settlement Officer (ASO) narrated his experience:

> *A married woman put a writ petition in the District Court to claim property after her parents' death. She did not have any brother. As per customary law, property was inherited by her uncle (male descent) in the family who served her father during his old age. The daughter registered a case in the District Court. Assistant Settlement Officer was dealing with the case in the District Court. He found that as per customary laws, daughter was not entitled to inherit her father's property so decision was taken to disinherit her from the ancestral property. But, the daughter challenged the verdict of the District Court and appealed in the High court where the case was still pending.*

Later on, inheritance related customary laws were partially amended. A provision was made that a written 'will' formally executed may confer a woman the right to inherit the family property. Women, however, were made entitled to their own property. The, dowry *(Thuam)* in Mizo, she gets during the marriage from her parents, was exclusively her own property. Will is practiced less and most of the time it is oral. It has been found that Mizo society is not untouched by the winds of change. If father is well-off and having large landholding, he may consider other sons and daughter for inheriting property. Other factors which influence inheritance related decision making were the 'will' executed by head of the family, economic conditions or marital status of the daughter whether the daughter was unmarried or divorcee, etc.

Generally, Inheritance-related decisions were taken by head of the family (father). In some cases, it was decided both by head (father) of the family as well as VC. VC basically acts more as a witness and a

recommended authority. It assesses the economic condition of the family and then decides accordingly.

Notably, not many *Mizo* women were found aware of inheritance related customary laws. A study [35] revealed that a little more than one-fourth respondents (26.24 per cent) were aware of the customary laws of land inheritance however, a large number of them (73.76 per cent) were not. Respondents, who reported that they were aware of land inheritance laws, 84.09 per cent said that as per *Mizo* customs, the youngest son inherit but in practice, it depended on the 'will' (verbal or written) of head of the family (father); one-tenth of the respondents (9.09 per cent) said that only the male members in the family inherit. They further explained that the main house was inherited by the youngest son and other assets were inherited by other sons. 4.55 per cent respondents said that it depends on the economic status of the household and the quantum of assets owned; if the family owned sufficient assets in that case, it was divided among all the children. A small number of the respondents (2.27 per cent) said that widow of the deceased act as trustee till the child become adult.

Emergence of Feminist Movement and Changes in Inheritance Laws

Realizing the fact that the customary laws are gender discriminatory, first time in 1980 the then Lt. Governor (Administrator) of Mizoram constituted a Committee to examine the draft report on the *Mizo* Customary Laws and Practices (*Mizo Hnam Dan*) prepared by the Law Research Institute (LRI), Eastern Region, Gauhati High Court and point out corrections, if any, required with regard to the statement of law in the said draft report on the customary laws and practices as they

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[35] Singh, P. & Arora S. (2012), *Evaluating Revenue Administration and Land Records: Their Strengthening and Updating in Mizoram*, Mussoorie, UK Centre for Rural Studies, Lal Bahadur Shastri National Academy of Administration.

were in force; to consider and suggest modifications or reforms that can be introduced in various aspects of the *Mizo* Customary laws and to examine any other incidental or consequential issues. The Minister for Education and Social Welfare, MLA, Ex Minister, Ex CEM, Registrar, Cooperative Societies Aizawl, President, District Council Court, Presbyterian Church, Ex Director, Local Administration Department, Sr. Research Officer, Tribal Research Institute, Aizawl, Advocate, Under Secretary, Law & Judicial Department (Notification No. IJE 30/79/366 1980)[36] were nominated as members of the committee. The committee has reviewed and revised the *Mizo Hnam Dan* and submitted its report to the Govt. of Mizoram. Thereafter, the review committee went through several rounds of meetings and consultations to finalize the draft on customary laws (*Mizo Hnam Dan*) but nothing substantial could be done except few amendments.

Gradually progressive *Mizo* women realized that half of the populations in Mizo society were discriminated in socio economic and political arena and kept out of the decision – making process. They found that customary laws were repressive in nature and gender biased. Some of the enlightened women, women's organizations and NGOs raised their voice against gender biased customary laws. They mobilized women and raised a movement to improve their ameliorating condition. Women's organizations such as Mizoram Hmeichhe Insuihkhawm Pawl (MHIP) which means women united Pawl Association and All *Mizo* Women's Federation (AMWF) emerged as powerful pressure groups and pushed the government to review the existing customary laws from gender perspective. Gradually, several other women organizations such as All *Mizo* Women's Federation (AMWF) came forward to take the lead. Over 10 women organizations got affiliated to AMWF to make the movement stronger. All these organizations emphasized the need for a law that

[36] Notification No. IJE 30/79/366, Aizawl, August 20, 1980.

could eliminate the gender discrimination. They were of the view that women work day and night to look after their family, manage household chores and work in jhum fields, in schools and offices but they have no say in decision making in public sphere". Generations of Mizo women suffered because of the legal biases in the system. Women's groups also demanded for a 33 per cent reservation in the political system. Therefore, in such situations the only option left was to change the situation through the legislative route. They were of the view that repressive practices should be prohibited by the legal system. A custom cannot be over turned but it can definitely be made gender just and modified". Mizoram Hmeichhe Insuihkhawm Pawl (MHIP) advocated for an increased induction of women candidates into local political parties.

Mizoram *Hmeichhe Insuihkhawm Pawl* is a voluntary organization. It was one of the largest and the strongest women's group in Mizoram. Its main aim is to ensure the welfare and upliftment of the marginalized people with special emphasis on women and children. Its headquarters is at Aizawl. It covers the whole of Mizoram having branches at different levels. Any woman from the age of 14 years or above can become the member of the MHIP with membership fee of Rs. 2/-. Wife of a ruling Chief Minister is the ex-officio President of the organization.

MHIP literally means binding women together. Its logo is '*hmui*', a charkha which symbolizes *Mizo* women's creativity and sense of self-reliance and *Tlawmngaihna* which means philanthropy – a key characteristic of the *Mizo* society. Main activities organized by MHIP are: to fight against atrocities on women, shelter for the destitute, family counselling, impart leadership training and provide a platform for the social interaction. This organization works at the grass root level and mobilizes women about their rights and also raises human rights issues. It is the MHIP which has reviewed the customary laws of

Mizo society and found it gender discriminatory. It has pressurized the Govt. to introduce two important acts namely *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014. One of the major challenges before the organization was how to convince people to change traditional system, customs and mindset that suppress women, both within the family and in society.[37] Mizoram since beginning has remained a land of struggle. Women also remained a part the struggle. Pi Sangkhumi, has penned the history of the *Mizo* women's movement, titled 'MHPP Chanchin 1974-2009'.

Series of consultation took place but women organizations were not satisfied with the amendments made in customary laws. Finally, during 2005, lots of debate took place on the issue of women and customary laws. Members of the review committee were having diverse views. One group was against amending customary laws. The argued that the *Mizo* customary ways of life should be preserved. *Mizo* society should not be in a hurry to enter into 21st century and opt the formal laws. They wanted the customary laws to be codified but not amended. The other group counter-argued and emphasized the need for the codification of customary laws. They acted as a pressure group and pressed the need for amending the customary laws and make it gender just. Ultimately, Mizoram Divorce Ordinance was passed under lots of pressure in 2008. Congress Ministry promulgated overtaken to the Assembly. The matter was referred to the Law Commission. Thereafter, the Law Commission consultation with the Review Committee including women's groups continued for 5 years. Within this period, around 20-22 round of meeting took place. The Committee was represented by MHIP. The MHIP was a permanent member of the committee, Mizoram *Upa Pawl* (an elders' association), members of Bar Association and prominent citizens. Member of Legislative

[37] Ministry of Communication and Information Technology, National Informatics Centre, Mizoram State Centre, Civil Secretariat, Aizawl – 796 001, website accessed on 5th June, 2015.

Assembly or Law Minister was the chairman of the committee. The Panchayat *Mahila Shakti Abhiyan* also played a crucial role to convince the law makers on the need for the law. In September, 2009 an open house discussion took place. Ultimately, in 2012, the Law Commission has completed the report and submitted to the Law Department. In the meantime, somebody has filed a case for the deficiencies left in the report. Those loopholes were rectified. Then Marriage, Divorce and Inheritance of Property Bill, 2013 was referred to the second Law Commission which was with the present Govt. Since then Law Department has conducted around ten rounds of meetings. It was a historic victory for the women's movement when the State Law Commission finally took upon itself to review the *Mizo* Marriage Bill, 2013, The *Mizo* Inheritance Bill, 2013 and the *Mizo* Divorce Bill 2013 (Hanghal 2014).[38] Thereafter, the state Assembly passed landmark legislation of the *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 (Act No. 9 of 2014) in the Assembly session which ended in November 26, 2014 (Dowerah 2014).[39] The Act has come into force with effect from 13 February, 2015 (Mizoram Gazette Extra Ordinary 2014).[40] This Act applies to any person who belongs to *Mizo* tribe. It also applies to marriages where male members of the parties belong to any *Mizo* tribe and connected matters therewith. The newly enacted *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 deals with marriage, dissolution of marriage, division of property on divorce, will inheritance of father's (Head of the family) property and inheritance of a woman's personal property. In the new law, there are specific guidelines for the dissolution of the

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[38] Hanghal, N. (18 June 2014), "Meet the woman who has been leading Mizo women's push for legal reforms for 40 years", Mizoram, unsung heroes, women, Retrieved from http//www.betterindia.com accessed on 10 July 2015.

[39] Dowerah, S. (2014 December, 6), "Mizoram's new divorce law finally gives its women some hope", Mizoram, Reuters, Retrieved from http//www.firstpost.com accessed on 10 July 2015.

[40] The Mizoram Gazette Extra Ordinary (17 December 2014), Vol XLIII, Aizawl.

marriage. This Act disbands the customary law of the patriarchal *Mizo* society, entitled divorced women to inherit property and also protected them from being divorced at the will of their husbands. President of the AMWF, Jane R. Ralte said that the Act would reform the society by reducing divorce rates and reducing the number of orphans in Mizoram (DNA Agency 2014).[41]

Thus, after many years of advocacy, struggle, consultation with law-makers and resending of memorandums and draft bills to Assembly and to the executive bodies, the MHIP – an apex body representing several local women's groups ultimately could get success to push the system into considering judicial and legislative changes in the marriage, divorce, inheritance and succession laws to safeguard the interest of *Mizo* women. In fact, this was the result of a unique struggl that has gone on for over a decade waged by the MHIP; therefore, women's groups have welcomed these laws as a step forward. They are hopeful that it will usher in change.

Women and participation in political process: Reservation of 33% Seats

The Lushai Hills District (Village Councils) Act, 2015:[42] The Lushai Hills District (Village Council) Act, 1953 was introduced to replace the exploitative traditional village chieftainship. In 1972 when Mizo Hills district became UT, and attained the statehood in 1987, the Govt. of UT of Mizoram and Mizoram as a state adapted this Act to carry out the village administration in its respective areas. VC has elected members. In fact, VC is a nomenclature of village court. At present,

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[41] DNA Agency (29 April 2014), "Divorced Mizo women now entitled to inherit property", Aizawl, PTI. Retrieved from http//www.dnaindia.com accessed on 10 July, 2015.

[42] The Lushai Hills District (Village Councils) (Amendment) Act, 2014.

there are 757 VCs in Mizoram having 3339 members.[43] Though women were not debarred for contesting the election of VC, yet in practice, women have not been encouraged to join the fray. The VC which is considered as a democratic institution at the grass root level remained male dominated (Lalneihzovi 2006).[44] Women participation in the village level democratic institution such as VC is almost negligible. So far, only one or two women became the VC members in Aizawl town area. It reveals that women were kept out in the decision making process in the political arena. Women's participation in political process is important for their political empowerment. Their absence in the VC has a direct bearing on their inferior position (Lalneihzovi 2014).[45]

Realizing the absence of women members in VC, several women's groups in Mizoram raised the issue and pressurized the Govt. to amend he existing Village Council Act, 1953 and reserved seats for women. o save the political career and the fear of losing women's votes, political parties in the state unanimously supported the demand of women's groups. The Mizoram Government has passed the Lushai Hills District (Village Council) (Amendment) Bill in 2014. The Bill was passed in the Assembly providing reservation for women in the elections to the VCs and to ensure their participation in the public domain. With this, the Lushai Hills District (Village Council) Amendment Act, 2015 was introduced. This repealed and amended the Lushai Hills District (Village Council) Act, 1953. The amended Act passed in the Assembly provides reservation for women in the

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[43] Directorate of Economics & Statistics (2014), *Statistical Handbook Mizoram*, Aizawl, p. 91.

[44] Lalneihzovi (2014), "Political empowerment of women in Mizoram", *Indian Journal of Public Administration*, LX, 3, pp. 649-659.

[45] Lalneihzovi (2014), "Political empowerment of women in Mizoram", *Indian Journal of Public Administration*, LX, No. 3.

elections to the VCs. Thus, the enactment of the Lushai Hills District (Village Councils) (Amendment) Act, 2014 (Act No. 10 of 2014) was another important progressive step taken by the Mizoram Govt. to make women politically empowered.

The new Act has made new provisions, For instance, clauses (i) (ii) (iii) & (iv) of sub section (2) of Section 3 of the Principal Act, was substituted by the new clauses. The new Act ensured women's participation at the village level institutions such as VC. Based on the number of households in the village, women representation was fixed up. For instance: i. Villages having 200-500 households having five members, of whom one shall be woman; ii. Similarly, for villages having 500-1000 households, there shall be seven elected members, of whom two shall be women; and iii. For villages having 1000 households and above, there shall be nine elected members, of whom three shall be women (The Lushai Hills District (VCs) (Amendment) Act 2014).[46]

The *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 (Mizoram Gazette, Extraordinary 2014)[47] may still have some shortcomings and that need to be amended soon.

Some people also say that although the Act has come into force but there is lack of awareness among most of the *Mizo* women about these Acts. Some have apprehension that customary laws may over ride this Act as people are not mentally prepared to accept such drastic change in the society. They are of the view that their customary laws should be respected.

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[46] The Lushai Hills District (Village Councils) (Amendment) Act, 2014.

[47] The Mizoram Gazette, Extraordinary (2014), XLIII, 570, Aizawl, The Mizo Marriage, Divorce and Inheritance of Property Act, 2014, Act No. 9 of 2014.

Movement, Resistance by the Patriarchal Institutions

The journey to achieve the goal of gender just law was not very easy. Women's organizations had to toil hard for several decades. Since beginning, the movement faced resistance either by male members of the society or the male dominated institutions such as church and Young *Mizo* Association (YMA).[48] Men were apprehensive that the Act might give more leverage to women counterparts. They argued that *Mizo society* follow customary laws and they may not like to accept the modern laws based on the principle of gender equality. Religious institution such as Church did not support women's movement. It is to be pointed out that women in *Mizo* society do not have any say in decision making process in Church. Their representation in the evangelical society is almost absent. There is hardly any women pastor in the state.

Similarly, Young *Mizo* Association (YMA) – a youth body is one of the powerful and the biggest non-profit organization in the state. It has a stronghold on *Mizo* youth and has a membership of around three lakh youth. But it has hardly any woman representation in the decision making unit (Dowerah 2014).[49] Young girls are part of the forum but at very low level. YMA also remained silent on gender equality issues

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[48] The Young *Mizo* Association (YMA) is one of the largest and the oldest non-profit and non-governmental organization of the *Mizo* people. It has various branches spread all over Mizoram. It was established on 15 June 1935, originally as the Young *Lushai* Association (YLA), which was later replaced with the "Young *Mizo* Association" in 1947. It was initiated by the Welsh Christian missionaries and the pioneer *Mizo* Christians who felt the need of cultural conservation of the *Mizo* tribe, who were under pressure of political and social modernization. It was registered on 14 May 1977 to the Government of Mizoram when it was a UT. The association is administered by a central committee (Central YMA), headquartered at Aizawl. President is the head of this organization.

[49] Dowerah, Simantik (6 December 2014), "Mizoram's new divorce law finally gives its women some hope", Mizoram, Reuters. Retrieved from http//www.firstpost.com accessed on 10 July 2015.

and maintained distance from any discourse/ debate on gender issue. It was evident from the fact that YMA did not attend even a single consultation meeting held to discuss the need for introducing gender just laws. Contrary to men, women's perceptions for these two new Acts were entirely different. Women were very much satisfied with the socio-legal reforms brought out by the *Mizo* Government.

To find out women's awareness and views on the newly introduced laws and a focused group discussion was conducted in village Lungleng at Aizawl district during March, 2015. Women were asked whether they knew about these two Acts introduced recently namely *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 and The Lushai Hills District (Village Council) Act, 2015. Women respondents' particularly from the young age group replied in affirmative. They were further asked from whom they have come to know about these laws. It was found that they have come to know about these Acts through newspapers and local television channels. These women further mentioned that they feel good to think that their interests were secured and find themselves empowered now as they were protected by the law. There were two divorced women in the village living in a separate house. They were engaged in tailoring or agricultural activity for their livelihood.

Entanglement of Formal Laws vs. Customary Laws and its Impact on Women

Since Mizoram is situated at the international border hence, for defence purpose a large amount of land had been acquired for establishment of Border Security Force. Also after attaining statehood, land had been acquired for various development projects such as construction/diversion/ upgradation of roads, improvement of junction at National Highway, playground, construction of booster pumping station, market, go-down for Food Corporation of India, and school.

2.7 square kilometre land was acquired for building an airport in Aizawl, the state capital.

As mentioned earlier that Mizoram is a hill state where vast land is community land. Community land extends usufruct right and is administered by the customary law. Community land is not recognized by the Land Acquisition Act as this Act deals with titled land. So if land acquired which is owned on individual basis, cash compensation is given for that. It is to mention that affected families are compensated only when the land is in the notified town or sub-town areas. If agricultural land has been allotted by the Revenue Department on periodic-patta basis the affected families are given compensation for the standing crops only. Since male member is treated as head of the household hence, male member get compensated. Land Acquisition Act does not recognize community land hence, whenever ommunity land is acquired, people are displaced without any ompensation. In such situations, women are the worst sufferers as they play a significant role in jhum cultivation. Acquisition of community land has negative impact implications on women. Women involvement in jhum land gives them a greater say in agricultural production and control on land. Women and children are the worst sufferers in case of acquisition of land.

The following example illustrates how formal law such as Land Acquisition Act (LAA) succumbs to customary laws and displaced large number of affected people from their land which was the only source of their livelihood.

> *Serlui B was a Hydel Project which submerged Builung village in Kolasib District in 2001. This has displaced almost 150 families. Most of these families were dependent on community land for their livelihood. Only few of them had titled land. To resettle these affected families, rehabilitation site was developed in town area in Kolasib*

district. Only those who had land title were given land for land. They were provided houses. Transportation facility was provided to shift from original village to resettled site. But families dependent on community land and engaged in jhum cultivation were not compensated. With displacement, they lost their community land – the only source of their livelihood. They shifted to the town area but did not have the skill to get any job there.

One of the senior revenue officials mentioned how acquisition of community land created livelihood crisis for the Mizo women:

In Serlui B Hydel Project, rehabilitation of tribal families was a problem for the Land Revenue Department. Although families dependent on jhum cultivation were provided housing facility but they were not provided any alternative source for livelihood. This rendered the displaced families landless. They lost their livelihood and started facing livelihood problems at rehabilitation site. So much so that even now, women of displaced families visit Revenue Office and Directorate of Land Revenue & Settlement, Aizawl share their grievances and request to be provided a piece of community land so that they could start cultivation and manage their livelihood. They make complaint for taking their land which was the only source *of their livelihood.*

Since community land laws and customary laws are recognized under the constitution of India, LAA should consider this aspect.

Conclusions

In comparison to many other states in the country, Mizoram stands high on social development indicators such as literacy, sex ratio and female work force participation. Women actively participate in the economic activity. 70% population in the state is dependent on jhum

cultivation. Jhum cultivation and common property resources are the main source of their livelihood. Jhum land provided equal opportunity to both men and women to work together and take joint decisions on crops and produces. But due to recent shift in land policy, the state is encouraging people to get away from jhum and shift to settled cultivation. Cash/ commercial crops and nonfarm activities are being promoted over staple crops. It has been experienced that settled cultivation has negative implications on women. Women are gradually losing their access and control over land as most of the Govt. programmes are land based which target male head of the household.

Tribal communities in Mizoram remained guided by the patriarchal value system. Though women play a significant role in agriculture but customary laws denied them inheritance rights and discriminated them at socio, economic and legal spheres. It has restricted their articipation in the political process. This has weakened their position. radually, women's groups felt the need to amend the customary laws. hey have pressurized the Govt. to amend the customary laws and make it gender just. After years of struggle, the Govt. has enacted two important laws namely the *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 and The Lushai Hills District (Village Council) Act, 2015. These Acts proved a landmark in the history of feminist movement in the state.

As mentioned large number of people are dependent on community land which extends 'usufruct right'. When community land is acquired for development projects, affected families are not compensated as the community land is administration through customary laws. Land governed through customary laws are not recognized by the LAA as this act is a formal law.

There are other problems with which the *Mizo* society is grappling with such as encroachment and acquisition of community land, uneven distribution of land among individual households and emergence of a

neo-rich class within the egalitarian tribal society, land-alienation, land mortgage and absentee landlordism. It is said that the piece meal survey is the major cause of consolidation of land by few rich families.

Suggestions

- Patriarchal forces seem to be reluctant to accept the concept of women's equality. There is a need to sensitize both men and women and the patriarchal institutions towards the newly enacted laws namely the *Mizo* Marriage, Divorce and Inheritance of Property Act, 2014 and The Lushai Hills District (Village Council) Act, 2015 and its importance.

- People in the interior of villages are yet not aware of the recently introduced two Acts. There is a need to create awareness both among men and women with special emphasis in the interiors of rural areas. This will enable women to exercise their rights at the time of need and resist their exploitation. It will strengthen their bargaining power.

- There is a need for land reforms initiatives – particularly imposition of ceiling on land. This has yet to take-off.

- The growing trend of land settlement on individual basis has enabled few people to consolidate land in their favour. This has led to the emergence of a class within an egalitarian tribals society. There is a need to initiate land reforms measures on urgent basis.

- Revenue department does not maintain sex-segregated data on land records. The schemes of National Land Records Modernization Programme are implemented in the state. The software can be revised which can include sex segregated data on land records. It will help in devising gender based policy in general and land related policy in particular.

- The land allotment procedure is complicated and time consuming. There is a need to simplify the procedure so that women could also participate in the process, if they so desire.

- In Mizoram, Revenue office in every district is located at the district headquarter. This makes it difficult for people particularly women to visit. Revenue office should be established at circle level so that women could also visit conveniently.

- VC election has been held in May, 2015. Elected VC members both men and women need to be given proper training about their roles and responsibilities so that they can dispose of their duties in an effective manner.

- Land and inheritance related customary laws in the three ADC areas namely Lai, Mara and Chakma are gender discriminatory. These customary laws need to be reviewed and amended after proper consultation.

- (What if CM is a woman?)

Case XII

Arippa Land Struggle *in* Kollam District, Kerala

– Ratnamuthu Sugathan,
Vidya Bhushan Rawat
& Sreeraman Koyyon

Background

Now, the landlessness among the Adivasis in Kerala is so severe that in some cases they do not have land for burials; sometime they have to dig their kitchens or veranda (portico) for burials. Large scale migratory settlement of southerners from outside locality especially Christian population since the British raj has alienated the tribes of their traditional land. Nothing was done even after the Emergency law for restoration of Adivasi lands was legislated. Kerala's Left government didn't follow compensatory policies either.

In 1960 the SC/ST Commissioner commanded that a new Act be formed under the 5th schedule. But Kerala government responded that no new Act is needed, the Land Reforms of 1964 would take care of them. But no benefits were given to Adivasis. Only tenants with leased lands benefited. Adivasis didn't receive surplus ceiling land. They continued demanding cultivable land for livelihood. Organized struggles of Adivasis were met with police firing as in Muthanga, Wynad. CK Janu and M Geethanandan, among others, were leading the struggle in Muthanga. EMS Namboodiripad and the Left did not provide opportunities for the unorganized Adivasis. In the words of Shri Sreeraman Koyyon of ADMS (Adivasi Dalit Munnetta Samiti) from Kerala, the left is involved in political feudalism.

Adivasis became wage labourers – cut off from land; their umbilical relationship with land is being destroyed. Since they are an inconsiderate vote bank, no attention is paid to them. All political

parties are dividing unorganized Adivasis to subordinate them as their pocket groups. Now the independent Adivasis are doing a non-violent land movement. In Aralam Farm, 3500 acres of land has been redistributed. The tribal movement demands redistribution of remaining land to the tribes. In the whole of Kerala, 10,000 acres of land are already distributed. In the name of zero-landless scheme, Adivasis are not given land for cultivation. The distributed land cannot be utilized properly. They have to try sustainability techniques.

Arippa Land Struggle is going on in Kollam district of Kerala. Around 1000 families occupied a surplus land, not yet distributed. There, the occupants stay and cultivate. They did harvest festival and sold part of rice produced branding it as Arippa Fresh, pointing their fingers against MNCs like Reliance. Communal amity is maintained in the group, and Sreeraman Koyyon's leadership could transcend party politics and slowly gain the support of all. The Arippa fighters declared that they will not accept the 3-cent formula of Kerala Government's zero-landless scheme.

In fact, according to National Sample Survey Organization (NSSO) data (2003-04) about 41.63% of households do not own land other than homestead. The data in table below also shows that while one third of the households are landless, those near to landlessness (with less than 0.4 hectare) add up one third more. The next 20 per cent hold less than 1 hectare. In other words, 60 per cent of the country's population has right over only 5 per cent of country's land; whereas 10 per cent of the population has control over 55 per cent of the land.

Category	Proportion of Households (%)	Proportion of Area Owned (%)
Landless	31.12	0
Less than 0.4 ha	29.82	5.11
0.4-1 ha	18.97	16.89
1 -2 ha	10.68	20.47
2-3 ha	4.22	13.94
3-5 ha	3.06	16.59
5-10 ha	1.6	15.21
More than 10 ha	0.52	11.77

Source: Distribution of Ownership Holdings of Land, India (NSSO 2003-04). Cited in Government of India (Department of Land Resources, Ministry of Rural Development) (24th July, 2013) *Draft National Land Reforms Policy*

People's Movement

Following the failure of Chengara package, on December 31st 2012, the landless people, majority of them Dalits and Adivasis, entered 54 acres of revenue land [notified as surplus land, and acquired by the government from the Thangal Kunju Musaliar family] at Arippa in Kollam district of Kerala demanding land rights. Now there are almost 1300 families in the protest land under the banner of Adivasi Dalit Munnetta Samiti (ADMS) led by Sreeraman Koyyon. The struggle is on-going. The protest has survived many challenges including a blockade by mainstream political parties in the name of 'local people'. They had to face physical assaults. Women had to face sexual assaults, threats from leading political parties.

They are people who stand neglected in society, with neither home nor land. The community speaks of how they have been cheated through the Chengara package and now remain ostracized from society. The tales of woe narrated by Arippa community is endless, and their problems have never been addressed by the government. Still the

struggle is going on peacefully and strongly, because they could win the support of all sections of society including even those who were inimical in the beginning. Sreeraman Koyyon, the leader of the Arippa land struggle could win over support from all sections, simultaneously keeping independence of the movement. All religious groups and political groups started supporting them, except Oommen Chandy. Therefore, a solution is still not meted out for them.

Mobilisation of support to Arippa

On 20 March 2013, a mass convention was organized in Kulathupuzha declaring solidarity to the land struggle. K.K. Kochu presided over the convention. The solidarity convention demanded that National Land Policy and Kerala Zero Landless Policy should reconsider and guarantee at least 5 acres of agricultural land to Adivasis. In the meeting, Sreeraman Koyyon declared the policy of land struggle to continue and expand in Arippa. Arippa Land Struggle Solidarity Committee (ALASC) was declared at the end of the convention. A people's convention organised by the Arippa Land Agitation Solidarity Council (ALASC) in Kollam on April 28, 2013 called upon social and democratic organisations to join the agitation for land launched by a group of Adivasis, Dalits and backward community members in Arippa. It said the government should not try to settle the issue by allocating three cents of land and create another colony. Instead, they should be given land that ensured their livelihood. The convention was inaugurated by the Koodankulam Samara Samiti chairman N. Subramanyan. ALASC chairman K.K. Kochu presided.



Dr R Sugathan inaugurating the Arippa Land Struggle Solidarity Convention, while Sheriff, Eroor Ashokan, Prof. MG Mary, Sreeraman Koyyon, KK Kochu, Suresh George, Ashtapalan Vellar and Saumi Mattannoor are seen in the front row of the dais.

Managing support from the diverse political and religious spectrum

Many sections of the diverse political and religious spectrum supported the land struggle at times of need. For instance, in June 2013, the state unit of Welfare Party of India, in association with Hira Medical Centre, Haripad organized a day-long medical camp at Arippa in Kulathurpuzha Panchayat of Kollam District. Medical superintendent Dr. Basheer who led the medical camp said many of them were suffering from malnutrition.



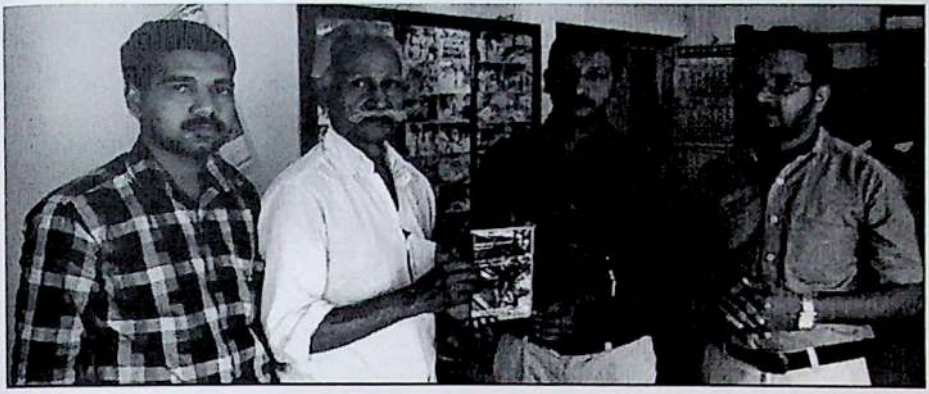
Medical camp

Hindu Aikya Vedi leader Shri Kummanam Rajasekharan have visited them and assured all possible help and support for their causes. Hindu Aikya Vedi has conducted medical camps and their activists from Haindava Keralam appealed for monetary aid in support of the Arippa community members.[50]

Social Democratic Party of India (SDPI) distributed food grains for the Arippa participants. In September 2013, the revolutionary union leader Shri GROW Vasu appealed to the government that it should immediately interfere in the Arippa land struggle launched by backward communities for land. He was speaking after the release of the video report on Arippa land struggle prepared by Solidarity Youth Movement.

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[50] http://www.haindavakeralam.com/HKPage.aspx?PageID=17576&SKIN=S



Com. Vasu releasing the video report on Arippa land struggle

Some church groups also supported the Arippa struggle participants with cash and food materials. Ekta Parishad led by PV Rajagopal and Peoples Green Party led in the state by Suresh George are others among those who helped the Arippa land struggle variously.

Celebration of Struggle by Involving in Organic Cultivation

However, the leadership of the struggle took the movement in a positive manner by involving in cultivation of the available land. Giving cultivation an organic mode, the agitators resorted to paddy cultivation, in addition to that of vegetables, tapioca and plantains. First crop of paddy was turned into a harvest festival with cultural activities. Part of the rice produced was marketed as 'Arippa Fresh' brand, presenting an alternative idea before the common people when big players like Reliance are entering the retail sector. Special Correspondent of *The Hindu* (January 8, 2014) reported by the title "Green is the colour of Arippa land agitation" that agitators have taken to farming to earn their livelihood and win the hearts of local people". Agitations can take many avatars – road blocks, sloganeering, strikes, and even violence. At Arippa, the State is witnessing an agitation of a

different kind – through farming. The next crop of paddy is nearly grown and was set to be harvested in March 2014. Tapioca is also being grown on seven acres, and would be harvested soon.



Agitators at Arippa in Thingalkarikkam village of Kulathupuzha grama panchayat in Kollam district till the land on a rubber estate they have encroached upon.

Photo Courtesy to C. Suresh Kumar (*The Hindu*)

No rubber tapping

Not a single rubber tree on the plantation is being tapped. The agitators say they have not entered the estate to misappropriate its assets but to demand land as a means of livelihood and for a roof over their heads. They say latex used to be pilfered from the plantation with political backing. But after the entry of the agitators, that stopped and this invited the wrath of the latex mafia. Samiti president Sreeraman Koyyon says families who have encroached upon the estate came from nine different districts and together, they are more than 2,000 strong. Their intention is not to take over the estate, but get suitable land in their respective districts.

The agitation ground now wears a tranquil look, but things were not this peaceful when the estate was occupied. Mr. Koyyon says vested political interests branded them Maoists, and they were subjected to constant physical and verbal attacks. It was a tension-ridden atmosphere, he recalls. The agitators being a determined lot, they decided to stay put even in the face of death till their demand for land was met. He says those were the days when they were ostracised by political parties, and even free movement outside the agitation ground was difficult.

They were desperately in need of some activity to keep busy, relieve tension, and bring about a change in the hostile approach of the people towards them, Mr. Koyyon says. This triggered the idea of farming, and there was un-assessed government land lying idle on which the idea could be translated into reality. Making the land arable was a Herculean task. But farming was in their blood, and together they set to work. The main requirement was water. A stream ran through the area but it was clogged with barely any flow. Men and women worked together to manually dredge the stream, and revive it.

Protest in New Delhi

A select few of Arippa agitators of Adivasi Dalit Munneta Samiti (ADMS) under the leadership of Shri Sreeraman Koyyon, supported mainly by Ekta Parishad had protested the land policies of the Government of India, New Delhi on 7 February 2014 through a sit-in Dharna and March to Parliament in Jantar Mantar. The programme was locally supported by sympathiser groups such as Peoples Green Party (PGP), Social Justice Alliance, and All India Students Association (AISA). The 'celebrated' land reforms of Kerala gave only hutments and no land for cultivation to landless poor. The previous UPA government at the centre that offered 10 cents of homestead land in a draft bill was hands-in glove with Oommen

Chandy government of Kerala offering pattas for 3 cents only to a select few.



Arippa Parliament Protest March being led by Sreeraman Koyyon (ADMS), VM Pavithran (Ekta Parishad), KP Hareendran Achari (Peoples Green Party) and others at Jantar Mantar, New Delhi on 7 February 2014

When draft bill uploaded for discussion is offering a minimum of 10 cents, contradictorily the UPA Chairperson Sonia Gandhi inaugurated in Kerala the Zero Landless offering patta for only 3 cents in Kerala. Jairam Ramesh who is behind the draft national bill also came to inaugurate district-level programme in Kannur. All land struggle groups except Laha Gopalan of Chengara do not cooperate with this rubbish of Oommen Chandy government. They are demanding cultivable quantity of land for livelihood. Adivasi Gotra Maha Sabha is demanding AK Antony package of 5 acres of land for Adivasis, which the present Oommen Chandy government is evading.

ABOUT THE AUTHORS

Vidya Bhushan Rawat
Activist writer and founder of Social Development Foundation
vbrawat@gmail.com

Ratnamuthu Sugathan
Researcher & Editor
rsugathan2005@gmail.com

Bhupendra Singh Rawat
Founder of Jan Sangharsh Vahini fighting for rights of farmers and people in the resettlement colonies in Delhi and NCR
jsvindia@gmail.com

Suman Singh
President of Uttar Pradesh Land Alliance, she works with rural women in Ghatampur and Kanpur Dehat regions of Uttar Pradesh.
agvsghatampur@gmail.com

Gangadhar Dangwal
He works with grassroots movements in Uttarakhand and is based in Srinagar, Garhwal
gangamuni@gmail.com

Sujatha Surepally
She works in the Department of Sociology, Satavahana University, Karimnagar, Telangana (now Principal, University College of Arts, Social Sciences and Commerce, Chintakunta, Karimnagar)
ssurepally@gmail.com

Ramdev Vishwabandhu
He is based in Giridih (Jharkhand) working with the Dalits and tribal communities on Land and Forest Rights
asijharkhand@gmail.com

Dineshbhai Desai
He works with MARAG (Maldhari And Rural Action Group) in Gujarat
maragindia@gmail.com

Saroj Arora
A Senior Research Officer with Lal Bahadur Shastri National Academy of Administration, Mussoorie.
saroj.arora12@nic.in

Sreeraman Koyyon
Leader of Dalit Adivasi movement with Arippa Land Struggle in Kollam District.
sreeramankoyyon@gmail.com