

# Displacement from Land

## Case of Santhal Parganas

*Despite the existence of tenancy laws that seek to protect adivasi rights to land in the Santhal Parganas, recent years have seen the considerable transfer of land from adivasis to contractors mainly through privately negotiated, temporary lease arrangements. This has serious implications for the employment and health of local populations as well as for the sustenance, in the long term, of common property resources and local livelihoods. At the same time, siltation and flooding in the upstream and lower reaches of the Masanjore dam have rendered cultivable land in several villages useless. As most of the adivasi population in the region depends on agriculture for its livelihood, the need to revise and rethink development strategies is of utmost importance.*

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The focus of this paper is primarily on the land tenure system in the Santhal Parganas, particularly on issues of alienation and loss of land and how far state land policies have been able to ensure land rights to the poor, particularly the Santhals. This paper is based on fieldwork conducted in the Santhal Parganas in March-April 2003 and January 2004. Two districts were selected for the study: one scheduled (Dumka) and the other non-scheduled (Deogarh). While villages spread over six blocks of Dumka district were covered, two blocks were covered in Deogarh. Village visits involved both individual interviews and group discussions on customary norms and practices, how land laws and government policies function in practice, dispute resolution mechanisms, extent of tenancy and alienation of land and struggles around land restoration. Apart from the village visits, discussions were held with a range of government officials at the district level, lawyers, NGOs and activists, in order to understand the intricacies of legal provision and its functioning in practice.

### Land Tenure System

The Santhal Pargana Tenancy Act (SPTA), passed soon after independence in 1949 provides the legal framework governing the land systems in the Santhal Parganas. Section 20, the main protective clause in this act, ensures non-transferability of land. As a result most Santhals have some landholding, even though often small due to division and sub-division over generations. The paharias, or forest tribes, still largely reside on hill-tops in forested villages. They cultivate land that has been cleared in the forests, but which is not yet regularised due to the non-appointment of a forest settlement officer. They also engage in shifting cultivation ("kurram" or "jhum") as do the Santhals in these forested villages. This is seen as an illegal activity by the forest department, often subjecting the people to bribes in return for such cultivation. However, as per Rule 10(i) of the Santhal Pargana Protected Forest Rules, Paharias do have legal rights to jhum, not just in unsettled areas but also in settled villages in the areas which have been set apart for the purpose by the settlement officer.<sup>1</sup> Clearly there is a legal anomaly here in terms of existing rights, which remain legally valid, yet are ignored

by the staff of the forest department in enforcing the new guidelines under the Forest (Conservation) Act, 1980.

While deriving its name from the Santhals, the Santhal Parganas has both Hindu (46 per cent) and Muslim (18 per cent) residents as well, though the pattern of their landholding varies with location. While the Hindus own most of the land in the non-"damini" parts of the Santhal Parganas (they constitute 75 per cent of the population in Deogarh district, with STs accounting for only 13 per cent and SCs 12 per cent), Hindu ownership of land is more limited in the damini areas.<sup>2</sup> Many of them came to the damini as writers and traders from Bengal in the second half of the 19th century, in service of the colonial rulers and gradually acquired some land, mainly for their homestead. In the non-damini areas, however, being originally zamindari estates, the inequality in land distribution is much higher, with a few large holders and several small holders and landless households. The majority of the landless are the scheduled castes, who either follow caste-based occupations such as pottery ("kumhars") or fishing ("kewats"), or now engage in wage labour of different sorts. Most Santhals, poorer Hindus and Muslims, who may have small land-holdings, also engage in wage labour.

Given the growing differentiation in the population and a lack of resources, combined with the legal inability to buy and sell land in the Santhal Parganas, a range of tenancy and sharecropping arrangements (lease and mortgage) have emerged. The most common form is land mortgage, locally termed "bhorna" or "miyad". In this form, grain or money is borrowed during times of need, and a proportionate amount of land given for the crop season. Linked to poverty and indebtedness, bhorna is widespread in most villages. There was only one village I visited, located in Kathikund block, where there is no bhorna, and this was largely the result of interventions by an NGO followed up by a strong and active village leadership, who have developed a systematic programme to promote irrigation and multi-cropping, provision of small consumption loans and community control on grazing and cattle management to enable an increase in productivity.

A second option, "bhag" or sharecropping, is a more equitable arrangement than bhorna. The output is divided equally – the land is the contribution of the owner, while the seeds and labour are provided by the sharecropper. It provides an insurance against

risk for the owner and an incentive to the tenant. A large number of women-headed households, unable to cultivate their land, primarily due to the lack of male labour for ploughing, give out their land on bhag arrangements, often to their male kin.

A third arrangement is "krishani", where the owner of the land gets two parts, while the cultivator gets a third of the output. The tenant provides the inputs. Perhaps the rates are higher as krishani only operates in dhani (paddy-growing lowlands) lands. Unlike bhag, however, krishani signifies a social relationship where the owner of the land is in a dominant position relative to the tenant. The high rent means that the latter are usually unable to make both ends meet.

A fourth arrangement is "bhugatbandha", a lease of land that is legally recorded and the maximum duration of which can extend to six years as per section 21 of the SPTA. While similar to bhorna in both form and terms, bhugatbandha is almost totally restricted to Hindu groups, who are legally not allowed to acquire land in any other form. This is widely prevalent in Deogarh district (called "satta"), but as my field visits revealed, is rarely registered, and has taken on exploitative forms. The lands are often completely alienated, staying as they do in the possession of the lessee for several decades. Legal action has, however, rarely been resorted to, and even where it has, cases have not yet been resolved or judgements delivered.

While debt bondage has been the traditional form of land alienation at an individual level, the last few years, particularly since the formation of Jharkhand, have seen widespread loss of land on at least two counts: (i) private transfers for undertaking stone quarrying on the land; and (ii) displacement due to excessive siltation of the Masanjore dam constructed in 1955-56.

## Loss of Land

### *Stone Quarrying and Crushing*

According to the district mining officer, Dumka, mining leases are granted under the Bihar Mining Concessionary Rules, 1972, with approval of the deputy commissioner (DC). As underground mineral rights vest with the government, they receive a royalty per truckload of stones removed. No transfer of land takes place, though the owner of the land does make a private agreement with the contractor to clear his land of stones. There are currently 190 stone quarries in Dumka district, 120 of them having been established since the formation of Jharkhand.

According to the SPTA, any transfer of adivasi land is illegal, with exceptions mainly relating to gifts to a daughter or sister, grant to a widowed mother or wife or transfer in favour of a daughter married to a "gharjawae" (resident son-in-law). The Samatha judgment (1997) noted that mining operations in adivasi areas should be conducted through cooperatives of adivasis. Twenty per cent of the net profit should be spent on education, health and communication services and no private mining should be allowed. Following this judgment, all state governments were asked to consider revisions in their mining rules in scheduled areas, rather than violating the law. The Association for Weaker Adivasis Enhancement and Rural Development, Sahebganj, has filed writ petition no 842/2001 in the Ranchi High Court requesting a stay on the renewal of old and granting of new mining leases till such time as the mining rules are revised. The advocate general of the state, however, issued a letter of clarification (no 724 dated June 16, 2001) to the DCs of Sahebganj and Pakur

districts in the Santhal Parganas, stating, "though the case was pending, the high court had not passed any interim order of stay for the mining leases already granted nor passed any order restraining the state of Jharkhand from either refusing or granting any fresh lease" (my translation from Hindi). The granting of leases has therefore continued and the revenues from royalty exceeded Rs 2 crore for Dumka during the year 2002-03.

Discussions with stone quarry and stone crusher contractors in Sikaripara block of Dumka district revealed some ambiguity regarding the amount of money paid for the land on which the quarries and crushers were located and the time period of lease. Estimates varied from Rs 3,000-5,000 per bigha<sup>3</sup> for a period ranging from 5 to 20 years. While there are a few Santhals amongst the quarry contractors and owners, the majority are not adivasis. The landowners, mostly poor adivasis, agreed to make informal lease agreements and hand over their land to the contractors in return for some cash.

While it is true that people who earlier migrated seasonally for employment get work locally now, the stone quarries have raised a range of issues surrounding wages, health hazards, common property and social character of the population. While the government minimum wage rate is Rs 64 for an 8-hour working day, the contractors usually make the workers clock longer hours for a lower rate of Rs 45 per day. This has been facilitated by the fact that almost half the workers on the quarries are migrants from outside the district. A second issue relates to the health hazard due to pollution and dust from the crusher. Neither is there a protective wall (12 feet high as per the rules) on all sides of the crusher, nor do the workers, mainly women, get any protective gear. While the activity is too recent for any assessment of health impacts, evidence from Ghatsila does suggest the negative health consequences, like silicosis, of working in the crushers.

Third, one of the villages in the area I visited reported that the mine-owners were throwing the mud dug out of the mines on the "gauchar" or common grazing land of the village, and this was now a big heap and totally unuseable for grazing purposes. They met the DC, who asked the circle officer (CO) to enquire into the matter. The CO never visited the area, but filed his report at the behest of the contractors. The grazing land is now virtually lost without any compensation. Finally, with cash flowing in to the local economy, there has been a spurt in the consumption of liquor and a rise in sexual crimes.

In terms of land policy, it is clear that a lot of land is being taken over by the quarry contractors through private agreements that are not only illegal as per the SPTA, but which also deny the owner a fair compensation for the use of his/her land. While the land is leased for a few years, a look at the sites and the deep pits therein clearly show that they cannot be brought back into cultivation. This makes it important to think about the future livelihood consequences for the poorer adivasis. If such quarrying is required, cooperatives could be formed as per the recommendations in the Samatha judgment, thus enabling the adivasis to receive a larger share of benefits.

### **Masanjore Dam: Outstanding Challenges**

Built in 1955 by the government of West Bengal on the river Mayurakshi, the Masanjore project was planned as a multi-purpose scheme with objectives of power generation (4MW), irrigation, flood control and industrial use. While the project

displaced 144 villages in Dumka district, spread over 19,000 acres of land, 5,000 of which was “baihar” or lowlands used for paddy cultivation, the major benefits of the project went to West Bengal. Some people lost all their land and had to physically move to a new location, while others stayed on in their villages, only part of their land submerged. While there was a rehabilitation package – land for land for the adivasis, a choice of cash or land for non-adviasis, some crop compensation and a promise of improved services including irrigation – there have been loopholes, inefficiencies, fraud and other problems all the way through.

While the life of such projects is normally assumed to be fifty years, if maintained well, they continue to function for almost double this period. Yet between 1954-55, when the project was commissioned and 1979-80, there was a sedimentation rate of 16.42 hectare metre per year per 100 sq km as against the assumed value of 3.7. This has reduced the dead storage capacity by 41 per cent and the total storage capacity by 12.5 per cent over this period [CES 1991]. Two problems have arisen as a result – while irrigation water is not reaching the tail-end villages on the one hand, cultivable land in the upstream villages has been rendered waste as a result of siltation. Without irrigation, people are unable to cultivate and have no option but to migrate for either agricultural work or work on the stone crushers in West Bengal. Work is hard, seasonal and insecure, children fall ill, and often they only manage to save grains to bring home with them.

In a village of Jama block, the dam submerged a third of the paddy-growing dhani land, but people had refused to move. They used whatever compensation they received to make new fields and reconstruct their livelihoods. But in the last three years, due to a rise in the riverbed, lands which were not in the submergence zone are now facing submergence during the monsoon. Due to the layer of sand deposited, they have become unfit for cultivation. And this story is not an isolated one. Villagers in the catchment area now fear a new period of displacement and insecure livelihoods, this time without compensation.

While the problems with compensation and rehabilitation cannot be reversed now, what needs to be addressed is the new displacement occurring due to the reduced capacity of the dam. Frequent flooding and submergence of currently cultivable fields on the one hand and stoppage of irrigation on the other are issues that need to be addressed in more than relief terms. They are clearly not one-off events. While the present government has plans to restore the Left Bank Canal and its distributaries and has allocated resources for this purpose, there has been no thinking on the continuing displacement of the downstream villages. If more land

is lost due to siltation, will it be compensated and by whom, or will the people be left to fend for themselves?

I next turn to state policies in relation to land reform and restoration and examine how far they are able to address some of the issues raised above.

### Land Reform: Distribution and Restoration

Under the programme of land reforms, the government in the Santhal Parganas has two major interventions. The first relates to the distribution of surplus land, both “bhoodan” (land-gifts, collected under the Land Ceiling Act) and those classified as government wastelands (“gair mazarua khas”, now “anabad”), to those who do not have land. Cash support is to be provided to make this land cultivable. A review of the land distribution in Dumka during 1998-99 reveals several interesting features (see the table).

First, land distribution is absent in the largely adivasi and forested blocks of Kathikund and Gopikandar. Here, people have reclaimed land from the forests and then got it registered in their names. In a village in Gopikandar block, 18 households got plots of land registered in the year 1992-93 and received material assistance (Rs 500) to make this land productive. One is however not sure about how such settlement would be dealt with in light of the DC’s order (as settlement officer) of July 27, 2002 that all land that was earlier forest land, including “jhanti” (scrub and wasteland under community control as per section 27, SPTA), “rakha” (forest under the control of the landlord/proprietor) and “saku” jungle (sal forest, usually the “jaherthan” or sacred grove) should be reclaimed for forest uses. Ostensibly in line with the Supreme Court’s general order in the Godavarman case (202/95) that no land classified as “forest” should be used for other purposes, the order requires the cancellation of settlement on all land recorded as “forests”, including village forests and scrub land. By March 4, 2003, the settlement officer reported handing back almost 2000 acres of land to the forest department, though the court order says nothing about transferring the land to the forest department. Though evictions have not yet occurred, and may not be practicable, such a measure exposes the concerned raiyats to potential harassment from the forest department.

Second, while adivasis have received 56 per cent of the land distributed, per person allotment to the category of “others” is almost 45 per cent higher.<sup>4</sup> It is true that the non-adviasis are often landless, having come into the area as traders rather than cultivators, but they are not necessarily therefore poor. The use of landlessness as a criterion for allocation, apart from revealing

**Table: Land Distribution in Dumka Subdivision, Dumka District, 1998-99**

Sl No	Block	SC		ST		Backward		Women		Others		Total	
		No	Acre	No	Acre	No	Acre	No	Acre	No	Acre	No	Acre
1	Dumka	56	10.4	129	102.6	0	0	0	0	31	19	198	132
2	Jama	4	1.5	17	6.3	23	13.2	0	0	0	0	44	21
3	Jarmundi	11	2.1	7	8	8	1	0	0	1	4.2	20	14.5
4	Sariyahat	0	0	0	0	0	0	0	0	0	0	0	0
5	Sikaripara	7	4.2	32	16	0	0	0	0	12	7.8	51	28
6	Kathikund	0	0	0	0	0	0	0	0	0	0	0	0
7	Ramgarh	0	0	15	6.8	0	0	0	0	0	0	15	6.8
8	Gopikandar	0	0	0	0	0	0	0	0	0	0	0	0
9	Raneswar	11	22.5	7	9.3	8	13.4	0	0	10	14	36	59
10	Masalia	3	1.2	0	0	1	0.4	0	0	1	0.15	5	1.7
	Dumka SD	92	42	207	149.1	40	27	0	0	37	49.1	369	263.2
	Per Cent	24.5	16	55	56	10.5	10	0	0	10	18	100	100

Source: Records of the Assistant Commissioner (AC) Land, Dumka.

a lack of understanding of local social relations, could be potentially socially regressive. It is important to prioritise landless SCs and STs in distribution programmes, before other groups.

Most recently, in 1994-95, in line with the Eighth Plan call to allot 40 per cent of ceiling-surplus land to women, the then district commissioner (DC) of Dumka issued an order prioritising women in the distribution of land, but this focus is not reflected in the land distribution data. A related issue is in terms of issuing joint "pattas" to men and women. Progress in this too has been tardy. Government initiative in terms of redistribution does not seem to have touched women (or the scheduled castes) much in real terms, yet has contributed to the discourse around the legitimacy of women's land claims.

A second priority of the land reform agenda in the Santhal Parganas relates to the restoration of alienated land. The new Jharkhand government has put up a notice to this effect outside the treasury building in Dumka, offering Rs 2,500 as legal aid and Rs 5,000 per acre as support for resuming agriculture on restored land. None of this money has however been sanctioned or distributed. As per government records, only 11 cases of alienation have been filed during the year 2003-04. Village visits, however, revealed a widespread problem of land alienation. Lacking resources – time and money – and difficulties of dealing with court procedures, the poor adivasis who have lost their land are unable to make their claims successfully.

### Conclusions

The Santhal Pargana Tenancy Act, 1949, forms the basis for governing land relations and transactions in the Santhal Parganas. Given a history of exploitation by a range of vested interests, resulting in land alienation from the adivasis to the non-adivasis, the act (through section 20) has sought to protect adivasi rights to land by making all land in the region non-transferable. There are, however, a few exceptions to this clause, primarily in relation to women's land claims. The SPTA also clarifies a range of rights to common property resources, clearly demarcating the role of the headman and village community in this regard.

In the last four years, however, there has been considerable transfer of land through privately negotiated, temporary lease arrangements for stone quarrying and crushing, from adivasis to outside contractors. This has no doubt helped generate local employment, yet has raised issues in relation to the terms of employment, health hazards, the destruction of common property and the long-term implications in terms of the sustainability of local livelihoods. Rather than regulating such mining, in line with its new industrial policy and Vision 2010, the government is supporting such initiatives [Rao 2003]. The process adopted seems also to be in gross violation of the Supreme Court's Samatha Judgment (1997).

Lack of maintenance of the Masanjore dam has led to a high rate of siltation and consequently a decline in storage capacity. This has meant depriving the resettled villages of irrigation water, without which they are unable to take a single crop and are forced to migrate in search of wage employment. Upstream too, the back-flow of water has been leading to flooding, rendering cultivable land useless. A systematic review is urgently required to analyse the livelihood problems and initiate suitable strategies.

The land distribution programme of the state has not had a great impact due to several reasons including the small amount of land available for distribution. Village common lands ("gair

mazarua aam" and "khas") including grazing lands are under community control as per the SPTA, yet in the latest survey operations, they have been classified as 'anabad', that is, uninhabited lands. Though technically the community still has control, the government is overriding such community rights for urban and industrial development purposes.

More than 80 per cent of the population of the Santal Parganas, one-third of them adivasis, are dependent on land and agriculture as their primary source of livelihood. Development policies therefore need to prioritise land and natural resource-based sectors of development that have the potential to benefit the majority. ■■■

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### Notes

- 1 There was a provision from the DC to permit shifting cultivation in the region. The order still exists, though now this is considered illegal and not a right. Cases can therefore be filed in such instances. In practice, however, shifting cultivation persists, in the absence of other livelihood options.
- 2 The Damin-i-koh was the hill tract area demarcated by the British colonisers between 1824 and 1833 as per Resolution dated July 17, 1823 as a protected area. It was to be an exclusive property of the government and all zamindars were to be excluded. It consists of present day Pakur, Sahebganj, Dumka and parts of Godda district.
- 3 Three bighas make an acre of land.
- 4 While constituting 10 per cent of the households, they have received 18.5 per cent of the land.

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