



**INDIGENOUS PEOPLES AND FRAGMENTED LANDSCAPES:
EMPIRICAL EVIDENCE FROM 22 TRIBAL GROUPS IN INDIA**

PURABI BOSE

International Development and Documentary Filmmaker, India
purabibose@gmail.com

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Abstract

This evidence-based research, part of [Landing Together](#) initiative, is about forest and land governance of India's 22 Indigenous Communities in 10 states. It analyses how recognition through various legislations is fostering and/ or fragmenting traditional land and forest tenure.

Land and forest rights of indigenous peoples are a politically contested issue across globe. 2015 was the worst year on record across many countries, including India for killings of land and environmental defenders, about the majority of them from indigenous groups. India has one of the progressive landmark legislations that 'recognizes' traditional rights and aims to empower about 100 million tribals and other forest dependent groups. Yet, implementation of these so-called progressive legislations remains a big concern.

Between 2015 and 2016, for 20 months, the author conducted an extensive ethnography study including audio-visual recording of interviews with 22 tribal groups, pastoralists, government officials, former militants, political leaders and civil societies in 16 tribal districts all over India. The conceptual framework of this paper underlines two aspects of 'recognition': (1) traditional forest and land rights, and (2) indigenous self-identity for forest citizenship. Each of the case studies highlights specific issues such as conflicts due to Eco-Sensitive Zone in Assam and Elephant corridors in Tamil Nadu, collective forest resources of pastoralists in Gujarat, opencast mines in Chhattisgarh and Jharkhand, oil palm in Mizoram, timber plantations in Odisha under the new CAMPA Bill, the weak functioning of *Gram Panchayats*, and inappropriate land acquisitions in Rajasthan.

This research finding indicates that national demand for timber and mineral resources influence the policy decision to recognize indigenous peoples' land rights and 'forest citizenship'.

Key Words: Forest citizenship, Indigenous Peoples, pastoralists, land tenure, India, policy



BACKGROUND

This is a working draft unedited paper titled ‘Indigenous Peoples and Fragmented Landscapes’. It is an evidence-based research about forest and land rights of 22 indigenous communities in 10 states of India.

Land governance is regarded as the key to ‘sustainable development’. The term ‘sustainable development’ is a vague concept because the lens one uses to analyze land governance will determine the development for whom, why and at whose cost. The governance of land broadly includes rights to access, use, manage, and develop. Globally, land governance policies are the main determining factors about the nation’s approach to people and environmental management. It is estimated that there are about 300 million indigenous peoples around the globe, the majority of them in Asia. Indigenous peoples’ land governance is a contested issue across developed and developing countries. In recent years, in several countries like Liberia, Democratic Republic of Congo, South Sudan, Ecuador, and Colombia (and even in the United States of America’s Dakota Access Pipeline) the rural and indigenous populations live in tenuous land tenure security conditions. Often, the reasons for conflicts over land are many overlapping conditions, ranging from unclear institutional arrangements for land management to natural resource exploitation to ethnic conflicts to state legal implementation weakness.

It is estimated that there are more than 300 million self-identified indigenous peoples around the world. Though the percentage of indigenous peoples is about five percent of the world’s population, the majorities of them live in Asia and often are poor. The diversity of indigenous peoples varies within countries, between regions and continents in terms of socio-cultural background, history and languages. This makes it difficult to claim a single fit all definition at the global level to identify all indigenous communities. There is no particular universal definition to identify ‘indigenous peoples’ rather it is based on self-determination. In several human rights documents, including the United Nations, the identification of the indigenous peoples is based on the following: self-identification as indigenous peoples as well as recognition from the community, distinct language, culture and beliefs, maintain a connection to territories and natural resources, an experience of subjugation, dispossession, exclusion as a non-dominant groups of society and distinct modes of social organization, laws and institutions (FAO, 2015).



Identity of Indigenous Peoples in India

In tribal India land governance is a political topic. Nevertheless, India has passed some progressive laws, at least on papers, favoring the rural and indigenous populations for their forest and land rights. To recognize the identity of the Scheduled Tribes, India has several laws and constitutional provisions, such as the Fifth (5th) Schedule for mainland India and the Sixth (6th) Schedule for certain areas of north-east India, which recognize indigenous peoples' rights to land and self-governance. The 5th Schedule area covers tribal areas of nine states of mainland India, while the 6th Schedule, applicable in the north-east states of Assam, Meghalaya, Tripura and Mizoram, gives autonomous administrative divisions of India freedom through the central government to exercise legislative and executive powers in tribal areas. This decentralization is at varying degrees of autonomy within the state legislature and provides for local self-governance for the tribal peoples.

During the same period, the Indian government voted in favour of the international legal instrument, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007. However, India does not consider the concept of 'indigenous peoples', and as a consequence the UNDRIP remains non-applicable in the country. India has an estimated population of 84.3 million of the Scheduled Tribes and estimates of the total number of about 600 tribal groups. However, they only comprise 8.2 percent of the total population (Census of India, 2011). The largest concentrations of indigenous peoples are in the 'central-belt' i.e. central India stretching from the state of Rajasthan to the state of West Bengal, and in the north-east states of India. However, there are more ethnic groups contesting to be qualified for Scheduled Tribe status, but are not yet officially recognized in India.

The Scheduled Tribes, in mainland India, are often referred to as 'Adivasis' meaning traditional dwellers or literally means 'adi or from the past', and 'vasis or dwellers'. Often, the term 'Adivasis' has different connotation in different parts of India. In states of West Bengal, Arunachal Pradesh, Assam, Meghalaya, Nagaland and Tripura some of the tribes working as tea plantation labourers – who had migrated to the region from other parts, are referred to as Adivasis. Although in many other parts of India, including civil societies and researchers use the term tribal groups and adivasis loosely translated as 'indigenous peoples'. The Indian Constitution does not use the term 'Adivasis' and instead refer to the Scheduled Tribes as 'Anusuchit Jana Jati'. The majority of them are either traditionally living inside the demarcated forest area and/ or are dependent on forest and land resources. This paper identifies the Scheduled Tribes and other traditional forest dependent communities, including pastoralists as the indigenous peoples.



Landscapes and Legislations in India

One of the recent progressive national legislation is the Forest Rights Act (henceforth FRA) also called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 that came into force on December 31, 2007. In addition, there are a few more national legislations that directly influence the rights of indigenous peoples for example,

- the Coal Mines Act, 2015 the Mines and Minerals (Development and Regulation) Amendment Act, 2015,
- the Panchayats (Extension to Scheduled Areas) Act 1996 (also known as the PESA),
- the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, (also known as Land Acquisition Act) 2013, and
- the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2015 that provides stringent action also against wrongfully occupying land belonging to Scheduled Castes and Scheduled Tribes, which is an offence under the Act.

The FRA aims to undo 'historical injustice' by empowering communities and securing traditional Community Rights as well as Individual Rights to land and forest resources. The FRA recognizes the 'rights of tribals and other traditional forest dwellers, who have been residing in forests for generations, but whose rights could not be recorded' (FRA, 2006). This legislation is progressive in many ways, particularly, by recognizing the millions who were regarded earlier as 'encroachers' on their own traditional land. The Act seeks to recognize to hold, occupy, and to live in forest land. Section 2(a) of the FRA defines community forest resource as customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscapes in the case of pastoral communities, including reserve forest, protected forest and protected areas such as sanctuaries and national parks to which the community had traditional access (see Raza, 2014). In addition the Section 5(d) of the FRA gives provision for the empowerment of right-holders, and gram sabha (village council) for conservation and protection of any forest rights to ensure that the decisions taken in the gram sabha are respected. However, the Government reserves the right to divert forest land for 'development' purposes, subject to the Informed Consent of the gram sabhas.

It is estimated that when the FRA is duly implemented about 100 million indigenous peoples will benefit. Yet, after 10 years of introducing this progressive legislation, the implementation of the FRA particularly on Community Forest Rights remains negligible (CFR-LA, 2016).